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The Corona Case
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DENYING THE OBVIOUS
The Psychology of Smog

IRA J. WINN

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EDITORIALS

Cato & Company

A major objective of the Nixon Administration is the liquidation of what is left of the Great Society programs. The immediate target is OEO. The selected executioner is Howard J. Phillips, 32, a founder of Young Americans for Freedom, who believes that Richard Nixon "epitomizes the American dream and represents all that is great in America." Walking down a Washington street with Theodore R. Tetzlaff, associate director of the Legal Services program, a division of OEO established to protect the rights of the poor, Phillips, who is the new acting director of OEO, defined his role and mission: "Every country needs its Cato, because every country has its Carthage. Well, I'm going to be this country's Cato. Carthage was destroyed because it was rotten. I think Legal Services is rotten, and it will be destroyed."

True to his word, Phillips fired Tetzlaff and several of his associates. In their place, he has installed assistant Catos, twenty-six in number, many of them present or former members of Young Americans for Freedom. These assistants are known in the agency as "the Gauleiters." In the judgment of Phillips, most of those removed are "revolutionaries," but it would be a mistake to think that the purge is based solely on ideology. The deputy assistant director, a moderate Republican, and his staff were given a half hour to clean out their desks. The new deputy is David Jones, former administrative assistant to Sen. James Buckley.

Describing the liquidation, one outgoing official told Jack Anderson: "It's a bloody business. It could have been done with dignity." But it wasn't. When Tetzlaff was ousted, one of Phillips' assistants said to him: "I hate to be throwing dirt on the coffin, but can we help you pack?" That's the way Catos function; they like to flex their muscles.

Phillips, acting on orders from the President, is bent on doing away with OEO in its entirety, but he has a special animosity against Legal Services. One can understand why. In California alone, OEO-sponsored legal aid offices have provided much-needed services to more than 100,000 Californians every year. Class action suits, according to state Sen. Mervyn M. Dymally, have benefited at least 2 million Californians. Despite this record, sixteen of thirty-four programs have already shut down or are on the skids. The liquidation technique is to fund the programs for thirty days only, which makes it virtually impossible for them to function; secretaries cannot be retained, attorneys leave.

Of all the OEO programs, Legal Services has been the most successful. It has consistently had the support of the conservative American Bar Association, whose president recently tried, without success, to get through to upper levels of authority at the White House to present the case for its retention. The program has been a boon to blacks, Chicanos and other disadvantaged groups, rural and urban. Not only has it enabled its clients to air their grievances in a peaceful and orderly fashion; it has also won them substantial benefits and given them a feeling of

having a piece of the action. In just six suits, Legal Services recovered about \$187 million for litigants who otherwise might not have been able to press their claims. "To summarily remove this assistance," Senator Dymally has said, "for those who often need these services most, is a monstrous move toward inequality." It is also dangerous, for it could set the stage for a repetition of the disturbances of 1967.

And it could be that the purpose of this *Putsch*, with its tough-guy sophomoric overtones, is to increase the polarization that already exists, on the assumption that disturbances, if they come, can be easily suppressed, to the applause of "the silent majority." However that may be, there is no need to speculate about the immediate strategy. A memorandum on the battle plan of the Nixon Administration has come into the hands of *The Washington Post*. It calls for "a swift and successful dismemberment of OEO by June 30, before there is time for Congressional opposition to gather and develop a legislative counter-strategy." The memo discusses techniques for neutralizing the opposition, including key members of the Senate, and of exploiting divisions within it. House Speaker Carl Albert has denounced the memo as "an arrogant attempt to surreptitiously manipulate the legislative process." But more welcome by far than such indignant rhetoric would be evidence that an effective counter-strategy exists. At the moment none is apparent.

Operation Homecoming

The homecoming of the American POWs was a great story. Anything so poignant that it brings tears to the eyes of hardened newsmen is no soap opera. Not even the military public relations officers—and the high brass that gives them their orders—could make it one; but it was as tightly managed as anything that originated in Vietnam during those seemingly endless years of American participation.

The story behind the story was written up by James P. Sterba in *The New York Times* (February 20). Watching the proceedings at Clark Air Base in the Philippines and conducting private interviews wherever he could, Sterba concluded that the theatrical production was designed to restore the status of the military man to the honored place he had held before Vietnam. Even more important, the civilian audience that had been manipulated and lied to for twelve years was to be confirmed in its traditional attitude of mindless patriotism. Whether either objective will be achieved, after the men return to everyday life, remains to be seen.

To the extent that the clock can be turned back, it could probably have been done more effectively with a less cunningly programmed operation and a lighter touch. But only the best public relations people succeed in doing a job simply, and the military PR officers are not in that class. From the moment the first returnee walked down the stairs and along the red carpet it was clear that the proceedings would be a bit too pat. All the little speeches said the same thing; obviously they had been memorized in accordance with a script.

Only once was there a deviation. One prisoner returning from South Vietnam, where conditions must have

been horrible for captors and captured alike, was none too brisk as he came down the ramp and, worse, he was wearing a peace symbol. He was, we were told, going to be detained for a while in the hospital. This loner did not address "Mr. and Mrs. America."

With that trifling exception, the military PR men have thus far had an excellent cast for their purpose. The POWs were predominantly career officers and fighter-bomber pilots, well trained, well paid and highly "motivated." They did what they were ordered to do, courageously and without qualms. Capt. Michael Heck, once of their fellowship, was equally courageous, but after 175 bombing runs in B-52s he reached a point where conscience overrode indoctrination. So, just before the "peace with honor," he was discharged under "other than honorable conditions."

The chief offense of the military in this excessive feat of showmanship is against the freedom of the press. Freedom was violated by almost total exclusion. Every homecoming POW was escorted by an officer who saw to it that he stayed in line—assuming that any of the men had other inclinations. There were empty seats on the evacuation aircraft, but newsmen were not allowed to accompany the freed prisoners. The senior officer on each plane was told that live TV cameras would broadcast the arrival at Clark Air Base to the American people. When the POW officers who were to do the talking asked what they should say, "suggestions" were offered by the public relations officers. These suggestions turned into a draft which all the speakers followed. The PR men did not know their business well enough to vary the content a bit in the interest of plausibility.

They were expert, however, in keeping the press at a distance. Three of the escort officers were allowed to talk to newsmen a week before the POWs arrived, but they were not allowed to mention anything of interest—not even the names of their wards. A flight surgeon with the rank of colonel was reprimanded for answering some general questions and dropped from the evacuation team. Doctors and nurses at Clark were likewise kept incommunicado, although a few spoke privately to newsmen. Directives sent to 26,000 airmen and their families warned against expressing opinions on the war, the cease-fire or the prisoners. One airman quoted a directive on his barracks bulletin board: "Don't talk to the press because they will distort everything you say." When newsmen prepared to photograph this sweeping indictment, it was taken down.

Sterba quotes Gordon Gammack, a long-time war correspondent for the *Des Moines Register*: "This is one of the biggest stories of our time and it is being covered by military information officers." A short briefing would have been in order—that the POWs should avoid saying anything that might jeopardize U.S.-North Vietnam relations involving the prisoners not yet returned. Instead, what amounted to a total news blackout was imposed, and the occasion seized to restore the military's image and create an illusion of victory. For the information officers the war ended as it began; hardly anything worse can be said of it. Now one waits to see whether, among more than 600 brave men, there are any who may want to speak for themselves.

IN THIS ISSUE

March 5, 1973

EDITORIALS

290

ARTICLES

- 294 Denying the Obvious:
The Psychology of Smog
Ira J. Winn
- 298 Downright Frosty:
Japan's Toyota Diplomacy
Albert Axelbank
- 300 The Corona Case:
He Didn't Prove He Didn't Do It
Walter Stegmeir
- 304 Housing Allowances:
The Latest Panacea
Joseph P. Fried

BOOKS & THE ARTS

- 309 Arndt, ed.: Pushkin Threefold
Guy Daniels
- 310 Friedman, ed.: The Law of War
Milton Cantor
- 312 Sidel: Women and Child
Care in China
Charles Flato
- 313 Theatre
Harold Clurman
- 314 Hotel Lenox (poem)
James Wright
- 316 Films
Robert Hatch
- 316 Is This It? (poem)
Anne S. Perlman
- 317 Art
Lawrence Alloway

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Who Can Keep a Secret?

Can a newsman be compelled to tell anyone the name of his confidential source? Must a doctor reveal in court that he has treated you for venereal disease? Does a wife have to disclose what her husband said in confidence about his plans to take a new job? In many states, the answer to some or all of these questions is no. There are rules of evidence, called "privileges," that allow people to refuse to disclose certain confidential information.

Rules of privilege can operate to keep courts from obtaining information that may be critical to the determination of facts; as a result, these rules sometimes contribute to inaccuracy in the decision of cases. There is a longstanding controversy about the extent to which privacy of confidential relationships should be protected at the expense of accurate judicial investigation. In the end, a series of difficult value choices must be made: how important is it to protect the privacy of each particular confidential relationship? How much harm will it do to make a few exceptions in the privilege? How much error in litigation is the privilege worth?

These hard questions have just been answered for the federal courts, in a manner that has not yet received the public attention it deserves. Using a lawmaking procedure peculiar to the creating of procedural rules for federal courts, the Supreme Court asked a committee of distinguished lawyers and scholars to draft a set of evidence rules. On November 20, the Court authorized the Chief Justice to transmit to Congress the rules drafted by that committee. If Congress fails to revise or reject the rules, they will become law for federal courts in every state.

The proposed Federal Rules of Evidence would change the prevailing law of privilege in a most disturbing way. They contract significantly the privileges available in most states to an ordinary natural person, while at the same time they enlarge the privileges available to the government, and perhaps to private business corporations as well. The rules recognize no privilege for a patient's confidential communications to a physician, unless the latter is acting as a psychotherapist. The rules do not protect the confidences of a married couple, except in criminal cases, and even there the protection is more limited than in most state courts. There is no privilege under these rules for a newsman's sources, and none for communications between a client and a social worker, even if the social worker is acting as a psychotherapist.

At the same time, the rules create for the government a broad privilege for something called "official information," a privilege which offers substantial support to a disturbing recent trend toward secrecy in government. The government has long enjoyed a privilege for secrets of state, either military or diplomatic, and that privilege is maintained. But the new rules also permit the government to withhold a wide range of other information, and to force government employees to withhold it, if disclosure is thought to be "contrary to the public interest." Among the matters protected by this privilege are opinions and recommendations sent by one government employee to another, even if those recommendations are clearly relevant to the issues in a pending case.

In the past, when courts have recognized a claim of this kind at all, they have at least required that it be made by the chief officer of the relevant government agency. That way, it was hoped, a claim of privilege in the name of "the public interest" would be made only after careful attention had been given to the matter by a high-ranking government official; if he chose not to raise the claim, nobody else could do so. The new rules allow any government attorney to claim the privilege, thus creating a broad opportunity for bureaucracy to obstruct litigation, to withhold relevant and necessary information when no security issues are at stake. The rule offers a generous protective shield to inefficiency, arbitrariness and illegality in government.

One could understand, and perhaps even accept, a decision to contract all privileges in order to increase the accuracy of fact-finding in litigation. But it is impossible to understand a decision to expand the privacy of government officials while contracting that of ordinary citizens. Indeed, we would suggest that the priorities should be reversed, that it is more important to protect some of the confidences of private persons than those of government officials, putting aside matters whose disclosure might interfere with the national defense or foreign affairs.

In any event, these matters of privilege are not technical legal questions. They are matters of important public policy, affecting all of us, in profound ways, in our relations with one another and with our government. The draftsmen of the new Federal Rules have done a careful and thoughtful job in codifying rules of evidence for the federal courts, and they have proposed substantial improvements in several somewhat technical areas. But they have no special qualifications for making value choices on matters of privilege. In our view, their value choices are plainly wrong, and should not be allowed to stand.

ROBERT M. COVER & BARBARA UNDERWOOD
Yale Law School

Lethal Logic

A current business obsession that is getting out of hand is what they call "economy of scale"—the bigger you make it, the less it will cost to operate. In obedience to this principle, even as a storage tank designed to hold 600,000 barrels of liquefied natural gas was about to blow up and kill forty workers, construction was proceeding on two 900,000-barrel tanks in the same area. "We keep building bigger and bigger things," Prof. Robert M. Stark of the M.I.T. Department of Civil Engineering comments, "not realizing how dangerous they are."

Examples abound, but one that promises to be especially lethal comes from the trucking industry. In California, a six-month test is proposed of triple-trailer truck rigs. Such a rig occupies 100 feet of highway. The rigs with which we are familiar on the Interstates and other expressways consist of a tractor and two trailers, and that, to the motorist with average nerve and reflexes, seems quite enough at 65 mph. Truck drivers, on the whole a skilled and considerate lot, are of the same mind. But not the trucking companies. They want to add another trailer, thus increasing the "productivity" of the drivers.

The companies maintain that if "triples" are not allowed on the freeways freight rates will go up. A representative of an Oakland Teamsters local says, "The sole motivation for triples is profits—at the expense of other drivers and the taxpaying public." An official of the California State Automobile Association is similarly opposed. He points out that on city streets rigs of such length have difficulty negotiating turns and that they cannot negotiate many expressway ramps without damaging the shoulders. To this the managing director of the California Trucking Association, a stickler for politeness in controversy, replies, "hogwash." He maintains that in Nevada and Oregon, where triples have been used, the accident rate has been so low that there are no statistics on them. It would be interesting to know how much mileage these monsters have accumulated, on what roads and under what conditions.

If triples are to be allowed, why not quadruples? Why not a still longer string, like freight cars? Whether the proposed six-month trial is to be permitted is said to be up to the California Assembly's Transportation Committee. This looks like one of those ill-advised innovations that should be filed and forgotten.

Spy Drama

"If I film any one American family over a long period of time, I will expose the myths, the value systems, the ways of interacting that are American and apply in some way to all of us." Thus Anne Roiphe, author of *Up the Sandbox*, quotes Craig Gilbert, director of WNET's *An American Family* (*The New York Times Magazine*, February 18).

Assuming that Ms. Roiphe heard Mr. Gilbert correctly, he has an exaggerated admiration for the analytical powers of his medium and a doleful view of the homogeneity of American life. Just for a start, an essential part of the value system of a great many Americans is the conviction that family life is private; the fact that the Loud family of Santa Barbara was prepared—indeed, apparently eager—to sign a paper giving Gilbert and his camera crew access to its personal relationships over a period of many months suggests that the Louds' "ways of interacting" may in fact apply to very few of us.

To Think Again

As one of the principal organizers of the National Conference for the Democratic Left held in New York City on Washington's birthday weekend, I cannot pretend to be an objective observer. But even my partisan impressions may illuminate the position and problems of the Left these days.

Approximately 300 people participated at one time or another in the conference; that was a mild disappointment to us (we had hoped for 400 or 500) and a sign of the diminished activism among youth. Of those who came, perhaps a little more than half were students, more than a quarter were trade unionists, and only a handful were

Further, anthropologists have long known that even the most tactful and unobtrusive intervention in the life of a social microcosm significantly changes the phenomena under observation; so that, if one wished to generalize from the behavior of the peculiarly unreticent Louds, it would be necessary to ask first how "natural" was their family life in the presence of Gilbert, his camera crew, microphones, lights, reflectors and yards of black cable curling sinuously through the living quarters.

None of this should be of great importance, except as still another demonstration of the ease with which the media create "instant" celebrities (the Louds were taken up by the talk shows and the mass-circulation magazines as the National Sensation for the last two weeks of February). But the fact is that *An American Family* has cast a gloom over a nation that is already sufficiently depressed by its military incontinence abroad and its economic incompetence at home. We might have been spared the depression attendant upon having the Louds held up to us as a mirror, and we may still legitimately escape it by saying that in this case, for once, the mirror is false.

Seen on the tube, the Louds come across as flat as a dish. They seem to be not a human family but a "commercial" family; one is puzzled to discover what nostrum they are pushing. Perhaps the view is accurate: we are told that Mr. and Mrs. Loud were impelled to admit Gilbert & Co. because they suspected that their marriage was heading for a bust-up and thought it might be a help to have a camera crew on hand when the storm broke. This suggests a family that has exchanged its life for video reality, a form of extreme neurosis that has been showing up for some time now in psychiatric annals. More probably, though, the Louds—while somewhat limited as to imagination and aspiration—are capable of authentic responses and escaped into cliché land from an exposure more painful than they had anticipated.

An American Family was a bad idea. It is not art, because art does not use people but rather celebrates them; and it is not fact because man, for all his compulsive display, is essentially as secretive as the fiddler crab. The Louds are now popping up all over the spectrum, protesting that it was not that way at all. We well believe them, and wish for them the early comfort of a decent obscurity.

Michael Harrington

black. Perhaps the most optimistic thing about the proceedings was that everyone understood that we are moving into a tough, difficult period, but that no one proposed to retreat because of that prospect. There must be, everyone said, new and more precise, tough-minded ideas and tactics.

At the opening session, Joseph Duffey, the anti-war activist who won the 1970 Democratic Senatorial nomination in Connecticut and who headed Citizens for McGovern in 1972, argued that the politics of cultural style, which had been so evident in the peace movement, were over. Curtis Gans, one of the architects of the Dump

Johnson drive of 1968, spoke of the need for a "new Center," for a mass coalition to replace the shattered Rooseveltian alliance. Liz McPike, a political action staff member of the State, County and Municipal Workers, attacked the notion that the trade unionists can be brokered only by the leaders, and described her union's efforts to develop rank-and-file participation in politics. And Michael Novak, most recently the author of provocative studies of ethnic America and a speech writer for Sargent Shriver last fall, made a witty, anecdotal presentation of the need for the Left to understand, and speak to, the enormous variety of ethnic (usually working-class) traditions.

All these people had worked hard for McGovern. Not one of them was even remotely elitist; all were concerned with bringing together the best of the New Politics constituency and the labor movement.

At the trade union panel on the second day, one got a sense of the "other" labor movement. The participants—Peter diCicco of the New England IUE; Joyce Miller, assistant to the president of the Clothing Workers; Leon

Shull, executive director of ADA; Carl Shier of the Illinois UAW, and Earl Bourden from the New England Steelworkers—had campaigned for McGovern. And diCicco, president of the Massachusetts Labor for McGovern, could even tell what it was like to win. All of them discussed Nixon's attempts to woo the AFL-CIO—and all concluded that the realities and necessities of working-class life make any lasting labor alliance with the party of big business impossible.

There were panels on feminism, union democracy and the Democratic Party Conference of 1974. In my own summary at the last session, I suggested that the miserable, reactionary period we are now enduring has one, and probably only one, virtue. It is going to force the Left to think again. We have a difficult double job: to resist Nixon's anti-social attacks on the Great Society and to understand for ourselves how inadequate the Great Society was, and that we must go beyond it. We have to defend ferociously whatever can be saved of the OEO and at the same time map plans for a really serious war on poverty—and racism and urban decay.

DENYING THE OBVIOUS

THE PSYCHOLOGY OF SMOG

IRA J. WINN

Mr. Winn, professor of Environmental Education and Urban Studies at California State University, Northridge, is the author of Basic Issues in Environment (Charles E. Merrill Publishing Co., Columbus, Ohio).

Los Angeles

When a heavy gray and yellow haze hangs like fog in the Los Angeles basin, pressed down by a recurrent lid of warm air from the Mojave, city life can be seen in slow-motion decay. Like some dying beast writhing in its own excrement, its freeway tentacles still pulsing and jerking with the flow of 3 million wheeled and cancerous cells, the city slowly sinks into a misty oblivion that obscures its proudest monuments and its meanest alleys and tracts. A foul leaden taste fills the California air and eyes weep from the sting. But even on those strange hazy days, which come now more frequently as the basin has filled with people and cars, there is a mask of unconcern on the faces of Angelenos, an attitude of busy indifference to or tolerant acceptance of the slow-motion spin into technological realism and psychological unreality.

On a collective or metropolitan level, there is no denying the existence of an acute smog problem. It is daily described in television weather reports and newspaper stories. But the individual viewer and reader is oddly selective, and on the neighborhood level most Angelenos have convinced themselves that the only smog worth worrying about keeps to another and distant part of town. Rationalizations are as thick as cars and are driven home as aggressively, if need be, to defend the cleanliness of

the air over one's own property. The stories told are as instructive and amusing to serious students of basin ecology as they are taken in deadly earnest by the citizens who ritually utter them. On one street, being up on a hill "assures" fresh air; two streets away, canyon dwellers "tend to be protected." Over here the noon breeze "sucks it out," while over there the ocean wind "baffles it." Inland, big buildings "rebound the smog" or an omnipresent "corridor of clean air" hangs in on one particular area. So it is that air pollution becomes an abstraction, a phenomenon to be found in the great somewhere—in that endless land of sprawl where they still film stories about the Golden West. But where it is exactly that the haze comes home to roost remains a great mystery.

Certainly the smog phenomenon is excluded from acceptable conversation. Perhaps a passing comment is acceptable, or even a witty jibe at the weather. But to get serious about what one is daily forced to inhale can label one an oddball, a person who can't adjust to the inconveniences of modern life. Even to several of my scientist friends, the subject has become a sore spot and I have learned to avoid it. To pursue it at a party can quickly turn the atmosphere uncomfortable, even hostile, almost like mentioning the Nuremberg laws in the Germany of 1935 or voicing sympathy with the blacks in an uptight American community today.

Indeed, the analogy to the Jews is particularly instructive in the light of research done on their reaction to a then impending catastrophe. Reviewing ninety life histories of the Nazi revolution, the psychologists Allport, Bruner and Jandorff found a pattern of active resistance to unpleasant ideas and an acute unwillingness to face

the seriousness of the situation confronting them. Even as late as 1936, some prospective victims who had managed to leave Germany were making return business trips. Other families, who had not been lucky enough to get out, spent their weekends in the countryside, escaping into nature as a way of temporarily avoiding "the problem." One man told how his symphony orchestra continued to play Mozart, skipping not a beat, as the musicians pretended not to notice wood smoke permeating the auditorium from the synagogue burning next door.

While the heaviest haze in the Los Angeles basin is neither so laden with social tragedy nor so crackling with the fires of self-righteous fanaticism, the element of human risk is just as real. And unlike the whispered mention of anti-Semitism in Hitler's Germany, there is no lack of open publication about the potential catastrophe implicit in present trends of basin ecology. "Your city is in a serious crisis," the chief of the environmental health section of the University of Illinois College of Medicine recently told a Los Angeles news conference. Referring to studies made during periods of high air pollution, Dr. Bertram Carnow pointed to a significant rise in death rates from aggravation of heart and chronic lung diseases. Furthermore, air pollution slowly destroys the ability of the body to resist, and unless the car problem is quickly solved, he warned, the whole city will probably fall victim to poisonous gases generated largely by the internal combustion engine.

Dr. Henry A. Schroeder, an authority on the effects of metals on the human body, was equally forthright in his advice to a U.S. Senate committee. Noting findings by 1968 of enough lead in vegetation growing along a secondary highway to abort a cow subsisting on the plants (the concentration had trebled in but six years), he concluded that airborne lead from automobile exhaust is "a potential and imminent hazard to human health. . . . Evidence of a biochemical abnormality in persons exposed to urban air concentrations of lead is beginning to appear. There is little doubt that at current rates of pollution, diseases due to lead toxicity will emerge within a few years." But nothing much has been done about the problem, and the worrisome prediction is being verified by a number of recent studies. The blood lead level of people in Los Angeles and other cities is now rated as sufficiently high some of the time to interfere with the functioning of body enzymes. This may be a key factor in loss of memory and related learning disabilities among city children. Dr. John R. Goldsmith, head of epidemiology for the California Department of Public Health, also finds that the lead level in blood of persons living near a freeway is markedly higher than that of persons living in relatively clean coastal air a mile away. These findings, however, have not resulted in public outcry or emergency state action. On the contrary, the land beside freeways is still considered prime real estate by speculative subdividers, builders—and the home-buying public.

In traffic jams, in tunnels and "normally" in downtown streets, the lead concentrations measured in Los Angeles air are found to be five to fifty times larger than the "safe dose" established by federal and state public health agencies. Lead, a cumulative poison, produces such common

symptoms as headache and fatigue, and can lead eventually to a variety of very serious disorders. As Tsaihua J. Chow, a specialist in lead at the Scripps Institute of Oceanography, pointedly warned in a widely circulated Los Angeles newspaper story, the threat of airborne lead is not limited to central city neighborhoods. Nor can the atmospheric threat fairly be compared to the obviously greater intake of lead from water and food. Almost all of the latter is excreted, whereas 30 to 40 per cent of inhaled lead is absorbed and retained by the body. Noting recent measured increases in urban atmospheric lead concentration of roughly 5 per cent per year (55 per cent for Los Angeles in the 1960s) Chow exhorts: "There now exists an identifiable current threat to the general population."

Of course, lead is only one harmful component of smog. Even without leaded gasoline, there will still be major health problems from nitrous oxides, hydrocarbons, carbon dioxide, ozone, photochemical smog and other by-products of internal combustion. These contribute in varying degrees to such modern amenities of urban life as nervousness, irritation of the eyes and respiratory tract, pain, nausea and tiredness; also to stunted plant growth and the corrosion of rubber and metal. While Los Angeles has no monopoly on the production of these irritant and toxic agents, it has the largest number of motor vehicles per square mile of any urban area in the world. The surrounding mountains form a natural trap for the 26 million pounds of smoke, gas and soot which the citizens daily vomit into their air reservoir. That is a million pounds more per day than was dumped in 1955. Notwithstanding, the Metropolitan Air Pollution Control District emphasizes in its publicity that, in relation to rising population and skyrocketing vehicle registrations (up 68 per cent in fifteen years), there have been major gains in the war against smog. Statistically speaking, there is much truth to the claim, but the smog is still gaining on the people.

And one may seriously doubt that oft-repeated messages of the weather-report type do anything but lull people into thinking that corrective action is under way, simply because the phenomenon is being measured and described. While the various "control districts" do file mountains of reports on the nature and extent of air contamination, most of which is both visually and olfactorily obvious, much of this paper war amounts to managerial ritual. Examples: in 1971, more than half the new cars tested by the state failed to meet exhaust emission standards. A truckload of data was dutifully filed in report form and given out to the media, but nothing was done to stop the sale or use of the cars. In 1969, after three years of exhaustive study, a federal grand jury actually voted to indict the big auto makers for conspiracy to delay the development of smog devices that could ameliorate the basin's serious air pollution problem. The Attorney General of the United States then entered the picture and managed to get an out-of-court settlement. The consent decree was a slap on the wrist and the manufacturers promised to try harder. And in at least one major regard, basin air pollution data is conveniently manipulated to give a false sense of ease. Each week in Los Angeles a special board goes through the motions of hearing industry

requests for air pollution variances. These solicitations are granted almost routinely, usually after a dull procedure. Medical experts are not called by the board, for public health considerations are not considered "within a scope of the process." Tolerance and "alert" levels are set for a hypothetical "average person," not for the actual sick, weak and old people who admittedly suffer the most. Data on stationary-source air pollution in certain areas of the basin where oil refineries and power plants congregate are veiled and distorted by generalizing all such statistics to the air basin as a whole. The variances receive very little publicity.

In any case, it is doubtful that Angelenos would be galvanized into rapid mass action to clean up the air even if they knew more. Their freeways are temples to the automobile and psychologically they are tied to its "convenience." Like the health warnings now routinely stamped on cigarette packages—a ploy which industry, the government and the public all know is ineffectual—the daily smog count is easily ignored. In an age where packaging is often considered more important than the product, what seems to matter is that there be the *appearance* of a major public health effort.

Far more effective than the habitual barrage of dryly factual weather bulletins might be a free-wheeling, counter-propaganda attack on the car industry—perhaps a campaign that took advantage of the human and tragicomic side of the smog picture. One might look, for example, to the cleverly fabricated rumors (attributed to the Brazilian sugar industry) that linked impotence to the use of artificial sweeteners. There was not a word of truth to the story, but in a country obsessed by the cult of masculinity the sale of natural sugar enjoyed a fantastic rise, and it took years for artificial sweeteners to recover. Whether a similar "leak" linking auto exhaust to premature baldness or Communist tendencies might result in some real action on the smog front is an alluring question. That such a ruse might be thought dirty pool is not even the point. The fact is that present types of anti-pollution campaigns are virtually guaranteed to end in sleepy indifference or pretense.

People hear what they want to hear—generally news that is comfortable and cheering. But public information people find it hard to believe the evidence that the public can really tune out a tremendous barrage of news copy. This perceptual screening protects the individual from too strenuous a load of incoming information, but as Simmel noted more than seventy years ago, urban man pays a price for his constant aversions. Discrimination becomes blunted and nervous stimulation becomes outwardly self-fulfilling. Feelings of anxiety may develop in the individual left without the familiar roar of traffic or the constant company of other background noise. People become habituated to entertainment and distraction and increasingly cannot endure quiet, contemplation, or solitude. The price paid is a loss in true freedom as man is increasingly unable to detect things of importance in the bedlam of chatter.

The extent to which people can block out what they don't want to hear about smog is perhaps most brilliantly illustrated in the example of the jogger or cyclist.

Priding himself on the importance of the "health kick" and wishing to display that ardor to others, he (or she) is found racing along the edges of traffic, deeply inhaling the worst accumulations of man-made atmospheric poisons to be found anywhere in the city. The U.S. Department of Public Health considers carbon monoxide levels above 10 parts per million "unsafe." Such high concentrations can impair a driver's vision and timing. But PHS readings commonly show carbon monoxide concentrations of more than 60 parts per million on heavily traveled thoroughfares. And Vincent J. Schaefer, an atmospheric scientist specializing in small particle pollution, reports routine findings of 150,000 polluting particles per cubic centimeter of air along roads frequented by automobiles. This compares to concentrations of only 1,000-1,500 particles for the same volume of air in most rural areas. Again, these data have been reported in the press and in testimony before Congressional committees. The research is dutifully published and filed away. The committees then begin a round of new studies and the "health nuts" continue to run.



Dobbins, Boston Herald-Traveler

The refusal to face the seriousness of the smog threat doubtless involves some tendency to self-destruction as well as mental flight and deeply compartmentalized thought. The latter are what Joseph P. Lyford calls "auto-anesthesia." Referring to the destructive effects of city slums on children, he writes, "We are, practically speaking, unconscious of what is going on. We seem to have pushed whatever knowledge we have about 'the process' into a part of our minds that is not directly connected with our emotions or our motor mechanisms." In other words, everything has become a vicarious experience, like watching a movie, and the result is that both tragedy and joy lose their meaning to us as actors. To that extent we have become "good Germans," as we unemotionally and ritualistically observe pictures of slums, of bombs dropping on Asian villages, or paste "Stamp Out Smog" stickers 6 inches above our automobile tailpipes.

The pattern of flight from reality often takes a physical

form expressed in collective support for highway expansion and suburban "development." Highway advocates have claimed from the start that freeways are cheaper than railways in the long run and that they will bring people back to the city. Instead, road costs have steadily soared (\$30 million per mile now for the insanity of the projected Beverly Hills freeway) and people have used the superhighways to flee still farther from city center. The push-pull daily traffic creates demand for still new roads, even as peripheral development imposes enormous costs on the city in the form of hidden subsidies for the public services used by suburbanites. A classic example of sprawl is the giant San Fernando Valley, which cowboy-actor Gene Autry once made famous with songs of its pastoral wonders. Today the orchards and farms are all but gone, the fertile earth covered over with Los Angeles slurb. From the crisscrossing ribbons of concrete is generated an enormous envelope of smog, which, particularly in the long hot season, floats low in the trap formed by the western foothills and there embraces more than a million residents. Progress has come to the San Fernando Valley.

And in the Santa Monica mountains, much closer to the ocean, landgrabbers are fast at work covering over what they can before a stalled political machinery can set aside a vast mountain park. Moving with the subtlety of an army of bulldozers, the "developers" are destroying the last possible clean-air shed for the entire Los Angeles basin. In this profitable work they are encouraged by the County Planning Commission, which, in unveiling its January 1973 version of the twenty-year plan for Los Angeles, reveals a mentality dedicated to paving over and "high-rising" the rest of the county.

Highways are also symbolic avenues of flight—the ace up the sleeve of Angelenos if that day ever comes when the poisoned air really cannot be breathed. What would happen on those corridors if everyone tried to flee at once, and what would happen to the air in the process of exodus, are considerations not entertained by the hard-headed realists who compose the voting population. Given the chance in 1971 to vote for a state initiative that would have put a small portion of gasoline tax revenue into a pool for the planning of urban transit alternatives, Southern California fell sucker to the propaganda of the highway lobby. The measure was soundly defeated. This act of ritualistic suicide was repeated again in 1972 with the defeat of Proposition 9. Plainly, the deprivations projected by the hucksters of oil and concrete caused far too much anxiety in the land of cars to allow people to view the proposals objectively. Indeed, the vested interests know their muscle and how to use it. In early 1973, newly elected County Supervisor Baxter Ward learned the hard way. Bitingly critical of the lack of action on air pollution, he called for lowering the ozone level at which an alert would be called and implied that the Air Pollution Control District may be overprotecting industrial polluters. His jurisdiction over APCD matters was suddenly and summarily taken from him by the chairman of the County Board.

Even in Riverside County, where both Los Angeles and Orange County smogs "go to die," organized citizen

complaints about the air are relatively few. The local politicians have learned that delaying and evasive action soothes most voters and avoids the hard work of meaningful action. Despite the city's dubious distinction of failing to meet California minimum air quality standards for as long as 150 consecutive days in a year, the political emphasis is on passing the buck to the federal government while also aiming to get new roads and freeway routes. The overriding fear is that strong focus on Riverside's smog plight will scare away business investment. As far as the Riverside public is concerned, political scientist Joel Edelstein unhappily concludes, "Seriousness of the problem does not assure the growth of tangible political force. In fact, just as extreme poverty can act as a means of social control more than as a spur to political action, heavy air pollution demoralizes the general population by imparting a sense of futility."

Nevertheless, a federal suit filed by Riverside and San Bernardino Counties has resulted in forcing the Environmental Protective Agency to come up with a clean-air plan for the basin. The outcome is a drastic and zany gas-rationing proposal that potentially might force an 80 per cent cut in motor vehicle use in Los Angeles and five other counties. The idea has raised a storm of criticism, blown to gale force by the virtual impossibility of implementation and the obvious aversion to the plan on the part of the very agency that created it. But even more revealing is the fact that the proposal completely burdens the public and leaves the car manufacturers free of penalty. Implicitly, it raises grave doubts as to the sincerity of federal intent and policy. For the most likely outcome of such a feint, if pursued, would be to arouse such a public outcry that strict federal clean-air standards for 1975 would be abandoned and permissible emission levels raised—which is just what the manufacturers are crying for.

To that extent the EPA may be acting irresponsibly in the face of a growing crisis, appearing more like some mad fairy-tale physician who fails to prescribe a cure for a predictable epidemic. In effect, what is urged is not a reduction in fever but the production of thermometers on which the likely fever-death mark is raised to 110. What EPA could do in the way of a constructive alternative would be to recommend stiff fines and high taxes according to the level of auto exhaust pollution. That would leave it to the manufacturers to get the lead out and produce clean engines—that is, if they really wanted to survive in a competitive marketplace.

In simplest economic terms, the Los Angeles smog problem is reflected in countless industrial communities. Says the mayor of one such town in Montana, "From a personal position, I don't like to see fluorides in the air, but I have to recognize that it is good for the economy." All pollution is really the product of the same industrial ethic, and Los Angeles is but the wave of the future of internal combustion. Indeed, the huge investment in internal combustion made by auto and oil companies and tens of thousands of allied parts suppliers is what dictates smog policy. A cheaper, simpler, more efficient and long-lasting engine represents a real threat; thus the tenacity which marks the commitment to internal combustion. Key

scientists have warned of growing risks to health, and consumer advocates are wary about the cost of the projected cleaning gadgetry, to say nothing of the necessary inspection program and probable repair bills. Energy conservationists are angry over the increased gas consumption that will be required by new filters and mufflers. But the industry-sponsored advertising tide seems glued to a philosophy of "no change." The motorcar means "power," "convenience," "what the public is accustomed to," and, of course, "leave it to us experts." "We are winning the battle against smog" is the refrain most likely to be hammered home in a desperate effort to keep the nation tied to the internal combustion power plant.

It will be interesting to see how much the public will be lulled by the "anti-smog" muffler-converter waltz. Up to now, statistical gains in the war against smog have proved ephemeral. Or losses have offset gains. Nothing seems destined to change the overriding effect of increasing population and increasing industrialization. Automobiles are being produced in the United States at twice the rate of babies.

In the democratic vision, the people are expected to discuss serious problems intelligently and bring forth solutions. But in another sense, it was the scribe of the Revolution who wrote candidly that "people are not easily disposed to right themselves by abolishing the forms to which they are accustomed." Jefferson was not thinking

of self-inflicted abuse or self-assumed impotence, but his observation holds true in either case. Rather than seek collective action against the forces of power and poison that despoil the air, the supposedly sophisticated urbanites work hard to repress the reality. California is widely known as both earthquake and smog country, but few people will seriously discuss the latter while most everyone still reminisces about quakes that have taken less lives than the monthly toll from smog-aggravated conditions. Property damage focuses outcry and interest far more than do school-board rulings that bar children from running or jumping exercises during periods of air pollution. In this atmosphere of self-delusion, people both feel and are powerless.

The City of the Angels sparkles for a while in the bright desert sun. *Let's go for a drive, everybody.* Slowly the gray-yellow haze moves in and the city gasps and fades. *No smog around here, fella: we have a breeze.* By noon, the sun surrenders to the dull shroud that marks man's play with death in his blind love affair with the all-time toy machine. On the gravestone of the city, some future anthropologist may write: "Here lies Los Angeles. She failed to inspire."

And now readers of the above, who do not live in Los Angeles, can congratulate themselves that they are not the victims of any such mass delusion—the while they breathe carefully their sodden air and wipe their streaming eyes. □

DOWNRIGHT FROSTY

JAPAN'S TOYOTA DIPLOMACY

ALBERT AXELBANK

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Tokyo

Despite the high-toned stuff about "eternal" Japan-U.S. friendship and the lavish cocktail parties (with sashimi, yakitori and tempura) where each side solemnly toasts the other's health and prosperity, the reality today is that Washington-Tokyo relations are downright frosty. Each side, but especially the American, is accusing the other of detracting from its prosperity. A U.S. official recently told this writer that he actually believes Washington now has better relations with the Russians than with the Japanese.

Tokyo's notoriously aggressive export behavior is at the heart of the problem. Americans are now discovering that cutthroat competition from a capitalistic ally—an ally which some State Department officials say is more important to America than any single West European country—can hurt much more than a splash of left-wing ideology, be it Marxism-Leninism or Maoism. China and the Soviet Union, incidentally, retain the quaint habit of balanced trade with other nations, something the Nixon Administra-

tion would presumably give its right arm to achieve with Japan.

America's red ink figure in trade with Japan last year was \$4.2 billion, a sum equal to \$40 for every Japanese man, woman and child. In 1971, the U.S. deficit with Japan was \$3.2 billion. With this year's projected deficit of perhaps \$3.5 billion, the cumulative deficit for the three years will be more than \$10 billion. Indeed, some observers say that the problem is already out of hand and that by 1980 the deficit with Japan will total perhaps \$25 billion. And like so many problems, the longer it continues the harder it will be to solve. Also, American indecisiveness may add new dimensions to the situation; for instance, foreign economic pressures may induce in Japan a feeling of isolation, and also stimulate the ambitions of those eager to see the country play a military as well as a political role in Asia.

So far there has been a long list of promises, agreements, voluntary controls, currency manipulations, trade conferences and 5- and 10-point panaceas.

"Jeeb" Halaby, of Pan American, who is chairman of the Advisory Council on Japan-U.S. Economic Relations, hinted last year at the supreme difficulty of eliminating the deficit problem. He said in a speech that an effective cure lay in "basic structural changes" in Japan's economy.

Japan, he said, would have to become "philosophically more receptive to foreign competition in its domestic market." But everyone knows that such changes in economic structure and people's thinking don't come swiftly, easily, or voluntarily.

Another important item is human emotion. When I asked Halaby last June what was the most important point of the communiqué signed in Tokyo by a group of top-level U.S. and Japanese businessmen, he said it was in the final sentence of the last page. That sentence said that both sides should act to resolve differences in a "calm and rational" manner. The fact is that emotions have already blazed. When the U.S.-Japan textile dispute was in full swing in 1971, a Japanese textile industry official accused the United States of "aiming to kill all of us. . . . It reminds us of Vietnam." Another official charged the Americans with "trying to squeeze Oriental 'dwarfs' with herculean strength." (Some dwarf!) In the first half of 1971 alone, Japan's textile exports to the United States increased by 78 per cent over the same period for 1970.

At the close of a press conference in Tokyo, in June 1972, attended by Halaby, David Rockefeller and Orville Freeman, a former Secretary of Agriculture, one Japanese reporter stood up and accused the Americans of trying to "kill" Japanese farmers. He also called the Americans ignorant and rude, which was easily an exaggeration. Earlier, Freeman in calm and measured tones had asked that U.S. producers be allowed to sell oranges to Japan—not throughout the year, but only during the off-season for Japanese-type oranges. Startled by the outbursts, a few Japanese industrialists have scolded their colleagues, calling on them to stop acting like "spoiled children." One such individual is the former president of Mitsubishi Heavy Industries, whose production includes ships, planes and tanks. Another is the manager of the international department of Mitsubishi Bank who stated in 1972: "We should stop behaving like a spoilt child, and should consider associating with Americans as adults."

The fact is that Japan, having attained a tremendous momentum, stamina and self-confidence, even a sense of superiority, can when it wishes be the toughest of negotiators. But, to be fair, Japanese officials certainly want to cooperate with other nations. Yet it seems that the head is often unable to control the feet.

For Japan is not slowing down for anybody—certainly not in the 1970s. The country's semi-planned economy is already programmed ahead for the next half-dozen years or so. Official predictions are that Japan's gross national product will grow in 1973 by approximately 10 per cent in real terms, which is roughly double the growth rate forecast for most other advanced industrial nations. And Japan is already in third position in the world economy.

The Japanese Government is applying the brake to its immense industrial expansion, but in general pressure on the brake is as gentle as a caress. And small wonder. Unlike China, Japan aspires to be a superpower. It sees itself in an industrial Olympics with the United States and the Soviet Union. If in the race for wealth, Japan knocks down some opponents, that is an unavoidable accident. An industrial tycoon in Tokyo says: "Tension between the United States and Japan will probably not be

settled before the Japanese standard of living in general, including wages, housing and sewerage, reaches the same point as that of the United States." The industrialist is Shigeo Nagano, president of the Japan Chamber of Commerce, and chairman of Nippon Steel, the world's largest steel maker. Incidentally, in housing, sewerage and wages, Japan still lags far behind the Americans. One statistic will suffice: a Tokyo Metropolitan Government booklet for 1971 says that sewers serve only 34 per cent of Japan's population, and less than 50 per cent of the population of Tokyo, the world's largest city.



Another problem is that Japan is rapidly expanding its production, or is contemplating the production, of exactly those items that compete with Southeast Asian economies, or with the United States. Southeast Asia produces more than 85 per cent of the world's natural rubber. Now Japan is hiking its production of synthetic rubber, thereby "subverting" the economy of the region. Huge Japanese exports of this item have attracted accusations of unfair competition, or dumping. Furthermore, Japan is quickly building up its investments in the Southeast Asian region, and that could turn some of the countries into "economic colonies." An official of the Malaysian Rubber Exchange, in November 1972, accused Japan of following a policy aimed at "colonizing Southeast Asia in the economic sense."

Actually, the United States has already tacitly conceded to Japan the world market in transistor radios and tape recorders and color TV sets. But Japan, its ambitions growing with its economy, is now after computers, aircraft and automobiles. Even today, U.S. cars can hardly squeeze through Japan's doors. (In 1971, Japan exported

more than 700,000 cars to the United States, whereas the United States exported 5,000 cars to Japan. The 1972 figures are expected to show the same imbalance.)

Even if Japan were to wipe out all remaining customs barriers, trade with it would still be difficult, for there are other issues than the economic ones. Thus, Michael Clapham, president of the Confederation of British Industries (CBI), recently declared that many of the 12,000 CBI members regard selling to Japan as among "the most difficult export activities in the world." He added: "Personally, I consider most Japanese very highly nationalistic, and their purchasing behavior is not based on terms of quality and price."

If many developed and developing nations do not wish to find their economies in ransom to the Japanese, they might heed the advice of Swedish writer Hakan Hedberg, who says in his book *The Japanese Challenge*, that

the Japanese "understand only one language—that of threat of reprisals." If other nations stopped "believing in Japan's promises [of free trade] which have been ignored by Japan for ten years," and resorted to the use of threat of economic reprisals, Japan's protectionism would "collapse like a house of cards."

In fact, Japan's era of protectionism is already coming to a close. And now other factors, including psychological and nationalistic ones, will be almost as restrictive for would-be exporters to Japan. The Japanese, who still work close to a six-day week (the average Japanese employee works one month longer each year than does his American counterpart), are now going to be the most fervent supporters of "free trade," since it is in the best interests of their country's expanding supereconomy. But anyone who thinks Japan will really curb its large ambitions for the sake of "friendship" or "partnership" is bound to be sadly disappointed. □

THE CORONA CASE

He Didn't Prove He Didn't Do It

WALTER STEGMEIR

Mr. Stegmeir covered the Juan Corona trial for the Associated Press and The Washington Post.

In American criminal law, the burden of proving that a defendant is guilty rests entirely upon the prosecution. Legally, a defendant does not have to prove anything. But is this the case in reality?

In the Juan Corona mass murder trial, recently completed in Fairfield, Calif., a jury of ten men and two women convicted Corona of killing twenty-five casual workers and later said of their decision: we had evidence only from the prosecution; we had no evidence, only argument from the defense; therefore we had no choice but to find Corona guilty.

For seven days the jurors deliberated in a locked courtroom in the Solano County Hall of Justice. Then, the final holdout juror, Mrs. Naomi Underwood, switched her vote from innocent to guilty and Juan Corona was convicted of twenty-five first-degree murders, the largest number in United States court history.

For newsmen who daily covered the four-month trial and others who heard the hours of detailed testimony, the jurors' findings were a shock. Newsmen had been almost unanimous in predicting that either Corona would be acquitted or that there would be a hung jury and a second trial. When the vote was announced at 11 to 1, two days before the verdicts were returned, defense attorney Richard E. Hawk told newsmen he felt sure he had the 11 votes, and prosecutor Ronald Fahey later admitted to a juror that he also had thought it was 11 to 1 for acquittal. But the jurors were thinking otherwise.

Almost everything about the Corona case was lengthy. It took Sutter County sheriff's deputies seventeen days to find the twenty-five bodies buried in shallow graves

west of the Feather River in Northern California. The investigation, which began on May 19, 1971, with the finding of Kenneth Whitacre's grave, was continuing nineteen months later as the prosecution case neared its end; indeed, Sutter County Dist. Atty. G. Dave Teja has said the investigation may never be completed. The Sutter County grand jury that indicted Corona met for six days before returning the indictment on July 12, 1971. A fourteen-month period elapsed between the indictment and the trial, the delay resulting from two heart attacks suffered by Corona and a change of venue, moving the trial from Sutter County 70 miles southwest to Solano County. After the jury was seated on October 2, 1972, the prosecution took three months to complete its case, which included 117 witnesses and almost 1,000 items of evidence. When the jury got the case in mid-January, the jurors deliberated for more than forty-five hours. Judge Richard E. Patton required thirty minutes just to read the twenty-five verdicts. The only part of the case that was short was the formal defense: there was none. And that, the jurors said later, was the omission which led them to convict Corona.

Not that defense attorney Hawk did not present some rebuttal. He did so through cross-examination and, it seemed at the time, effectively. Nor was the prosecution's circumstantial evidence case so airtight as to make any defense impossible. On the contrary, the Sutter County case initially unfolded as a series of investigative blunders so glaring that prosecutor Bart Williams expressed "reasonable doubt" that Corona could be proven guilty, and Judge Patton called the investigation "inept" and the prosecution "inadequate."

The investigative blunders came to light during the phase that dealt with recovery and identification of the bodies. A dozen Sutter County deputies testified as to how the twenty-five corpses, most of them badly de-

composed, had been dug up from graves in orchards west of the Feather River. These victims, most of them middle-aged drifters and part-time farm hands, were identified mainly from the state's fingerprint records. Under cross-examination by Hawk, deputies admitted that mistakes had been made: the bodies in graves three and four got mixed up, the "bearded man" was identified as being in grave four or five or six, and the burial sites were located so inexactly that, plotted out on a 7-by-10-foot map of the area, one of them ended up in the middle of the Feather River.

Prosecutor Fahey, who took a leave of absence from the Sonoma County District Attorney's office in October to aid the prosecution, said of the investigation in his closing argument: "These were officers from a small county and you can reasonably infer no county in the United States has ever dug up twenty-five first degree murders."

But it wasn't just the body mix-up that made the investigation look bad. Hawk also hammered away at the glaring failure of anybody in the sheriff's office to consider looking for fingerprints on evidence found in the graves. In the third grave, just above the body, were two meat receipts, both with Juan Corona's name on them. These meat receipts were what led the deputies to Corona. Hawk established during cross-examination that the receipts were routinely handled by deputies and that no attempt had ever been made to test them for fingerprints. This allowed him to suggest in his closing argument that the meat receipts might have been planted to frame Corona.

The jurors later revealed that they considered the meat receipts "damning evidence," even without any fingerprint evidence. None of the items found in the graves—a wallet lying on the chest of one victim, a hard hat found with another victim, a broken candle holder in the twenty-fifth grave—were ever tested for fingerprints which might have established a definite link to the killer.

This complete disregard for fingerprint evidence continued when deputies searched Corona's Yuba City house and his office at the Jack Sullivan ranch the morning he was arrested. At the house they found a machete, a post-hole digger and a ledger, later called a "death list." At the ranch office, which Corona used as a farm labor contractor, deputies picked up a 9mm. automatic pistol, ammunition and two knives with blood on them. All this evidence was handled without testing for prints.

After three weeks of the prosecution case, the blunders were so numerous that it appeared Sutter County, not Juan Corona, was on trial. It was in this period, during one of many closed sessions in Judge Patton's chambers, that prosecutor Williams admitted his "reasonable doubt" that Corona could be proven guilty. And it was in the same secret session, later leaked to the *Los Angeles Times*, that Judge Patton said, "I would say at this point it appears the investigation was inept, the preparation inefficient and the prosecution inadequate." The judge also told Hawk: "Apparently there wasn't even an attempt that this case be investigated until this case got down here to Solano County, after your client had been held in jail for sixteen months."

Hawk, grabbing onto Williams' "reasonable doubt,"

moved to have the 38-year-old defendant and father of four daughters freed on bail, now possible since the death penalty had been abolished. It was also reported that Hawk offered to drop a \$350 million false arrest suit against Sutter County if the county would drop the murder charges. Sutter County officials later admitted that at least two meetings were held in Fairfield to discuss the future of the case.

At the bail hearing, in a packed courtroom, Hawk argued for Corona's release and District Attorney Teja argued for continued confinement. Judge Patton then asked Williams, quiet up to then, if he still had reasonable doubt. Williams said he did not, because plaster casts made of tire tracks near the first grave, which had been "lost" in the sheriff's evidence locker for sixteen months, had now been found to match tires on Corona's van. When Williams explained that the prosecution was still investigating the case, Judge Patton said: "I just don't understand how the case could be prepared in this manner." But as for the bail motion, the judge shocked those in the court with one word: "Denied."

The expert witnesses then took over for the prosecution. Sacramento pathologists Dr. Joseph Masters and Dr. Pierce Rooney described how the victims had died either from massive head wounds or deep chest wounds. The pathologists agreed that the two knives found at Corona's ranch office "could have" inflicted the wounds and that the machete found at Corona's house "could have" caused the head wounds.

Criminologist Don Stottlemeyer testified that he had tried to match minute markings on Corona's machete blade with marks on the skull of Whitacre, the only victim whose body was sufficiently well preserved to permit such a comparison. Stottlemeyer stated that he couldn't make a match and Hawk later declared this enough reasonable doubt to acquit Corona. But Teja told the jurors in his closing argument that there was no evidence to show the machete didn't kill the other twenty-four victims and jury foreman Ernest Phillips, a retired Air Force master sergeant, said afterward that the jurors agreed with Teja.

Blood expert Dr. Ruth Guy flew in from Dallas and testified for three days about blood group findings. Using an unusual blood grouping test, she said she found traces of all four basic blood groups, A, B, AB and O, on some of the evidence: the two knives, the pistol, seven stains found in Corona's van, a floor mat and throw rug from Corona's car, and a Levi jacket. Phillips said after the verdicts: "In my estimation, the most damning evidence was the testimony of Dr. Guy and the other state people about blood. The two knives had blood on them and I didn't hear anybody say it was any other way." Noting that the bloodstains in the van and car were of all four blood groups and that the victims included at least one person of each of the four blood groups, Phillips asked: "How are you going to explain that away?"

Hawk attacked Dr. Guy's testimony through Stottlemeyer who, having watched a demonstration of her test methods in Yuba City, said her technique would give "an inadequate result." However, Dr. Guy defended her methods, saying that Stottlemeyer saw only an informal demonstration, and juror Matthew Johnson, a retired

Marine, said later that the jurors felt Dr. Guy had excellent qualifications and that Hawk had in no way discredited her "damning testimony."

District Attorney Teja called the ledger found in Corona's home "the most damning single piece of evidence" against Corona. In the closing arguments, Teja said of the ledger: "This list, it is a record of crimes contemplated, crimes attempted and some crimes completed. Crimes of murder." The ledger contains thirty-four entries: twenty-five names with dates and nine other listings, such as initials or "other American," which could be references to persons. The names of seven of the twenty-one identified victims appear in the ledger. Prosecutor Fahey even proposed, but not in the presence of the jury, that all the names are those of murder victims; if true, that would raise the number to around forty. Three handwriting experts testified about the ledger. State expert Terry Pasco testified that Corona had definitely made some of the entries, but that someone else may also have written in the ledger. John J. Harris of Los Angeles and Sidney Goldblatt of the U.S. Treasury Department both testified that Corona had written almost all the entries.

Hawk considered the ledger important enough to spend two days in jail for contempt, rather than allow Corona to give court-ordered handwriting samples; he then gave in, so that the trial might proceed. Hawk spent two full days cross-examining the handwriting experts, trying to shake their assertions that Corona had done the writing. However, as juror Johnson later revealed, the jury took the ledger as "a solid indication Corona had known these people at one time or another." (It is entirely possible; Corona, after all, was a contractor of farm labor.)

Further links between Corona and the victims were established by Byron Shannon. Although a convicted felon and a very confused man during his ten hours on the witness stand, Shannon said he saw Corona drive away from the Marysville skid row with victim John Henry Jackson and he never saw Jackson again. Shannon also said that Corona offered work to victims Jona Smallwood, Paul Allen and Elbert Riley, and after the three men drove off in Corona's van, he never saw them again. Johnson said later that, although Shannon was a "very mixed-up witness," he was never shaken in his testimony that he saw Corona with four men who later turned up in shallow graves.

Although the testimony of James Pervis was brief and seemed unimportant, his appearance in the courtroom was significant, Johnson later revealed. "Four of us were watching Corona when Pervis came in and he [Corona] turned white as a sheet. It was like he had seen a ghost. The thought flashed through my mind that Corona thought this guy should be dead and in a hole somewhere." Pervis stated that Corona had stopped his van in lower Marysville and asked him if he wanted to do "some work." Pervis said Corona "kinda opened the door and said it wouldn't take long—a couple of hours." Pervis said he refused and Corona drove off.

Several witnesses place Corona on the Jack Sullivan ranch, where twenty-four of the twenty-five bodies were found, at what prosecutor Williams in his opening statement called "odd places at odd times." Sharon Schmidal recalled Corona coming out of the brush near the river

about 9 P.M. on May 19, 1971. Seven bodies were later found in this north river bank orchard area. James Cummings, the ranch carpenter, remembered seeing Corona's van near the levee before 6 A.M. on May 22, 1971. A body was later found in a nearby orchard. Ranch worker Ernesto Garcia described how Corona had asked him questions about an earth chisel he was operating from the back of a tractor in the north river bank orchards. Corona, according to Garcia, asked how deep the chisel went into the earth. This testimony was not emphasized by the prosecution during closing arguments, but Johnson later said: "The chisel was a significant point they didn't make too much about during testimony. What better way to measure the depth of a hole so you know how deep to dig. I think he [Corona] was afraid the chisel was going to dig up some bodies."

One of the last prosecution witnesses, José Romero-Raya, said Corona offered to take him and another Mexican out to the Sullivan ranch on the night of February 24, 1970, since the men had agreed to work there the next day and didn't know where the ranch was. The prosecution had hoped Raya would be able to tell the jury about more than this proffered lift and prosecutor Fahey claimed that Raya was ready to testify that Corona brutally hacked him in the head later that night in the Guadalajara Café bar.

Throughout the trial, the jurors had heard bits and pieces of the Guadalajara incident, despite a ruling by Judge Patton that the subject was taboo. Hawk, who referred to the café, owned by Corona's half-brother, Natividad, as a homosexual bar, had claimed in his opening statement that the twenty-five killings were homosexual murders. During the first days of jury selection, Hawk scattered so many hints that the assault on Raya was a homosexual attack involving Natividad that prosecutor Williams defied Judge Patton's gag rule and called a press conference to tell the prosecution's side of the story, whereupon he was cited for contempt of court.

Williams said that the prosecution had investigated the Guadalajara incident thoroughly and decided that details about it were legally inadmissible in the trial. It came out later in court that Raya had told investigators that Natividad was a homosexual and that it was Natividad who had attacked him. However, in late November, Raya, then in "protective custody" in Sutter County, changed his story. The prosecution now sought to have the Guadalajara incident admitted as a prior criminal act showing a common criminal plan. Fahey said Raya would testify that Juan Corona, not Natividad, had assaulted him and the prosecution called pathologists Rooney and Masters, who had examined the twenty-five victims, and Dr. John R. Clark, who had treated Raya, to offer testimony about the similarity of the wounds.

Judge Patton didn't accept the prosecution's arguments. He ruled that Raya's wounds were unlike those of the victims and thus he avoided the question of who attacked Raya. The Guadalajara incident was inadmissible and could not be used to bolster the prosecution case.

But the three prosecutors were not finished. Sutter County public defenders, Roy Van den Heuval, and three others were subpoenaed to secret sessions on December

29 and January 2 under a very unusual prosecution discovery motion. It was later learned that the prosecutors were after a second list of names which they believed Corona had possessed. Hawk called this "a fishing expedition" and he was proved right. No new "death list" was produced.

Thus, after thirteen weeks, the prosecution completed a case built on circumstantial evidence. Mrs. Faye Blazak, a retired schoolteacher on the jury, said "there was so much evidence and we had to put it all together to really get a picture and it all pointed to Corona's guilt." When the prosecution rested, Hawk first moved for a directed verdict of acquittal on the ground that there was insufficient evidence to convict. Judge Patton heard brief arguments from both sides, then denied the motion, saying: "The court is obliged to accept the inferences which support the judgement of conviction." But, he added, the jury must make "a very different type of judgment," that being to consider inferences which point toward innocence.

After a short recess, Hawk then announced: "The defense rests." Not one witness testified for the defense and the jurors later said this left them no other choice but to disregard Hawk's courtroom arguments as "not evidence" and consider only what the prosecution witnesses had said. Juror Johnson later said of Hawk's decision: "I firmly believe he thought he had the jury in his pocket." Hawk admitted privately to reporters that he was sure he had nine to ten votes for acquittal. Jury foreman Phillips said that Hawk's decision not to present a defense "shocked everyone," and that in the jury room a lot of jurors felt "there were unanswered questions." The last holdout juror, Mrs. Underwood, said later: "I have a feeling we didn't get everything. I felt left out, like I didn't hear everything. I felt as Corona should have had a defense. I feel there are two sides to every story and we only heard one. I didn't feel it is fair."

Hawk said he put on no formal defense because the prosecution case had "no strong points" and there wasn't anything for defense witnesses to add. Teja admitted at the time that he was "slightly surprised" by the defense move, adding: "It will make a difference and have a bearing on closing arguments. We don't have a defense case to argue [against]."

However Teja, five days later, used the failure to present a defense as an argument for conviction. Noting that Hawk had promised in his opening argument to call witnesses to prove Corona innocent and to establish his client as an honest and peaceful man, Teja said to the jurors: "The defense lawyer promised you he would prove a number of things, none of which he proved. Where is the evidence that the defendant, Juan Vallejo Corona, didn't beat his wife and children? Where is any evidence whatsoever that the defendant didn't kill the twenty-five men and bury their bodies?"

Teja's argument so upset Hawk that he complained to Judge Patton that Teja was trying to shift the burden of proof from the prosecution to the defense. Judge Patton, in an unusual action, instructed the jurors during Teja's argument that, whereas the prosecution had the responsibility to prove guilt, the defense had no obligation to prove innocence. Later, when considering Hawk's motion for a new trial, Judge Patton said that Teja ap-

proached a violation of the Griffin ruling, which prohibits the prosecution from commenting on a defendant's failure to testify. However the judge found that Teja did not go far enough to be guilty of prejudicial misconduct, which would have allowed a new trial.

In his closing argument, Hawk said that through cross-examination he had established enough reasonable doubt to acquit Corona. The defense attorney listed those items of the prosecution evidence which did *not* link Corona to the crimes, such as the machete which didn't match marks on Whitacre's skull, the hairs in Corona's van which were not from any of the victims' heads, the blood on the pistol which was type A while gunshot victim William Kemp had type O blood, and a notebook found in Kemp's clothing containing multicolor writings which ink analysis showed were not made by Corona's multicolor pen. However, jury foreman Phillips later explained that just because one piece of evidence was less crucial than another didn't explain away the bloodstains in the van, the car and on the knives. "We considered inferences pointing toward guilt and innocence," he said. "We just couldn't support a conclusion of innocence."

Prosecutor Ronald Fahey had the final closing argument and Johnson later said that some of the jurors thought "Fahey put the whole thing together with his final summation." Fahey went over the evidence, piece by piece, piling up the machete, the knives, the bloodstained mat, rug and clothing, the ledger, the meat receipts and bank slips just a few feet from the jury box. Fahey also gave the jurors an explanation of why the prosecution never offered a motive for the killings: "I defy you to know what is going through the mind of a man who systematically chops and stabs twenty-five men and buries them in a remote area over a period of time."

Seven days later, after the verdicts were returned, Phillips said in his Vacaville home that "the motive tried to creep in on several occasions, but we had hard, fast evidence. At no time did we try to speculate." Johnson said the jurors accepted Fahey on lack of motive and ventured the opinion: "It boiled down that he [Corona] must have had something against little wino Anglo-Saxons. We were convinced some of those guys dug their own graves, thinking they were digging garbage holes."

On January 11, 597 days after Corona was arrested, the case finally went to the jury. Foreman Phillips revealed that the first vote was 7 to 5 for acquittal, indicating that Hawk was not far off in his predictions about the jurors. Over the next fourteen secret ballots, Phillips said, the vote swung to 11 to 1 for conviction, then later to 8 to 4 for conviction, and finally back to 11 to 1 for conviction, with Mrs. Underwood the final holdout. "It seemed as if we weren't ever getting over that one-vote margin," Phillips said.

Mrs. Underwood, the 63-year-old Vallejo widow, remained doubtful of Corona's guilt even after she changed her vote. On January 18, just after she had voted guilty, Mrs. Underwood said: "I still doubt I made the right decision. I tried to tell them [the other jurors] all their talk didn't take my doubts away." Mrs. Underwood continued: "I have doubts yet. I don't think they [the prosecution] had enough evidence." Owen, who was also a

holdout juror, said he was finally convinced that "all of the mass of evidence pointed to one individual and one individual only. It was the only reasonable, logical conclusion I could draw from the evidence we had. There was nothing to refute it."

This view—that the defense offered nothing to refute the prosecution evidence—was repeated by Phillips and Johnson. Phillips said: "If you didn't like the evidence of the prosecution, how do you refute it? The only evidence we had was from the prosecution. We didn't have anything from the defense. The defense did not make the case the jurors expected it would make."

Johnson said about the lack of defense evidence: "I think there is an awful lot he [Hawk] could have done that he didn't do. I can't understand why Hawk let so many opportunities get away from him. There were an awful lot of things he could have brought out." Johnson listed some of these as the blood types of Corona's four daughters; medical records on the man who, Hawk said, bled in the van; testimony by Corona's wife on whether Corona was making house repairs on the afternoon of May 19, 1971, when Whitacre is known to have died; and psychiatric testimony to show that Corona was not homicidal.

Whether Hawk will ever have a chance to present this

evidence in a second trial is now up to the State Court of Appeal, which must review close to 3 million words of testimony, argument and rulings made during the trial. Mrs. Underwood has said she thinks Corona "deserves another trial." She added: "It would give him a chance to clear himself."

It is also up to the Court of Appeal to decide whether Judge Patton was justified in citing Hawk for contempt of court nineteen times and sentencing him to seventy-four days in jail. Hawk served one day in jail before the appellate court stayed his sentence to hear an appeal. Even if Hawk avoids the jail sentence, some of the jurors have already revealed that his courtroom antics and demeanor rubbed them the wrong way. As for Corona, who remained silent throughout the trial, he is being processed into the state prison system for what could be a very long stay. The exact time Corona will serve will depend upon the State Adult Authority, which determines parole in all sentences. A spokesman for the Adult Authority has said that, although Corona is eligible for parole in seven years, he can expect to spend a long time in prison. Unless, that is, a jury in a second trial can be made to understand that it is very hard to prove a negative, and that Corona is under no obligation to demonstrate that he did not kill twenty-five men. □

HOUSING ALLOWANCES

THE LATEST PANACEA

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A new panacea is abroad in the land. It is the "housing allowance" and it is being trumpeted as the long-sought answer to the nation's slum-housing problem. Sen. George McGovern, when he was campaigning for the Presidency, urged that it be made a staple of the federal government's housing effort, and George Romney, until recently Secretary of Housing and Urban Development, has declared it an alternative to the present grab bag of scandal-ridden programs. Urban experts are grinding out statistic-laden treatises to advance its merits, and newspaper and magazine writers have begun implanting it in the public mind with all the scrupulous documentation of a medicine man limning the virtues of his latest elixir.

In short, as in 1937 (public housing), 1949 (urban renewal), 1965 (rent supplements), 1966 (model cities) and 1968 (mortgage-interest subsidies), we are to suppose that yet another bright new day is about to dawn in America's sometime battle against its widespread housing blight. Moreover, that day may well have been brought nearer by the Administration's recent announcement that it is suspending approval of virtually all new projects under present housing subsidy programs, while

a search is made for new and better methods—one of which, many believe, is the housing allowance.

It would work as follows: families otherwise unable to afford decent housing would be given an allowance sufficient to bridge the gap between what they could pay and the actual cost of such housing in their areas. The subsidy could be in cash or in "rent certificates" analogous to food stamps; either way, a low-income family could compete in the private housing market on an equal economic footing with families able to pay their own way.

In sharp contrast to existing devices, enwrapped in such befuddling intricacies as "land writedown," "housing authority bond retirement," "below-market interest rates" and "accelerated depreciation," the allowance approach has the charm of simplicity. The now chronic discontent with housing programs, and the surge of abuses and controversy that currently plague them, make obvious the appeal of a proposal that would simply hand a man the money he needed to get his family a decent place to live.

Unfortunately, the current federal housing scandals demonstrate that abuses and failures can occur not only in the "builder-subsidy" or "construction-oriented" programs but also in the minority of housing programs that already resemble an allowance approach.

A number of major questions must be answered before an allowance system can be safely adopted on a

large scale. Government-sponsored experiments have recently been undertaken to answer these questions, but it will be at least five years before sufficient data are available to make a meaningful assessment of the most vital matters in doubt. Meanwhile, there is danger that impatience with present programs will lead to hasty adoption of allowances, thus replacing one set of abuses and inadequacies with another.

Annoyance with existing programs is understandable. The Housing and Urban Development Act of 1968 was passed for the stated purpose of wiping out, once and for all, the vast bulk of substandard housing in America. Hailed as a landmark piece of social legislation—a possible “Magna Carta to liberate our cities” was how Lyndon Johnson put it—the Act called for construction or rehabilitation by 1978 of 26 million houses and apartments, including 6 million units to be federally subsidized for low- and moderate-income families. The existing public housing program was sharply expanded and several new programs were created, including a system of mortgage-interest subsidies to home owners and to developers of apartment projects. In addition, the Federal Housing Administration’s mortgage-insurance program—which had benefited a generation of for the most part middle-income families and had played a major role in the creation of suburbia—was extended to the crumbling areas of the inner city, which previously had been excluded from its advantages through the process known as “red-lining.” The Nixon Administration initially accepted the production goals; the output of federally subsidized housing soared tenfold, to more than half a million units a year, while the FHA insurance mantle was spread over the urban slums.

But instead of the hoped-for millennium, scandal and controversy erupted. [See “Homes for the Poor: The Well-Insured Swindle” by G. C. Thelen, Jr., *The Nation*, June 26, 1972.] The sordid details have been displayed in Congressional and grand jury investigations across the country: shoddy construction, serious financial instability, and charges of profiteering by land speculators, builders and other realty interests who took advantage of the subsidized-interest apartment program; grossly inflated mortgage values and slapdash renovations by speculators in the home-ownership program and in the extension of FHA insurance to the inner cities; the indictment of nearly three dozen FHA employees in half a dozen cities on various collusion charges, with the head of the important insuring office that covers New York City already sentenced to ten years in prison for bribe taking, and the chief appraiser in the Newark office sentenced to eight years.

The overall cost has been staggering, socially as well as economically. The poor have been treated to yet another proof that the reality of government housing programs mocks the rhetoric with which they are launched. The abandonment of entire neighborhoods has been speeded up, while Uncle Sam has become the nation’s biggest slumlord, and a losing one at that. Estimates are that the FHA will have to foreclose more than 20,000 homes in Detroit and Philadelphia alone, with resulting losses that could run higher than \$250

million. Given that sorry record—and notwithstanding that much good housing has also been produced under the beleaguered programs—the call for a new approach is understandable.

The housing allowance, its proponents say, could be such an approach, because a subsidy given straight to the consumer would largely eliminate “subsidy-skimming” real estate middlemen and the puffed-up public agencies that process traditional housing projects, thus sharply reducing costs and opportunities for profiteering. It is also argued that an allowance system would save still more money by making better use of existing housing, whereas present programs tend to emphasize expensive new construction. Some estimates are that, overall, the allowance approach could cut Washington’s housing subsidy expenses by as much as 50 per cent.

The proposed method is offered as a remedy for still other bitterly resented aspects of existing programs. Instead of requiring subsidized families to move into “stigma-bearing” housing projects, allowances would assertedly offer these families the same freedom of choice that is available to nonsubsidized families. As a result, it is held, not only would subsidized families retain their dignity, but racial and economic integration would be promoted far more effectively than under present programs, and the rancorous battles that have erupted over where to locate subsidized projects would be avoided.

In theory it all sounds persuasive. But in fact—given the uncertain state of our knowledge and the experiences of current scandals—the asserted advantages are at best hopeful suppositions.

An allowance system would certainly avoid many of the abuses of the subsidized-interest apartment program (the so-called Section 236 program, named for the portion of the National Housing Act that authorizes it). The shortcomings of this builder-oriented program have included poor construction and mismanagement in an alarming number of new projects, with profiteering by the developers, investors and others involved in “packaging” and constructing them. But an allowance system would be threatened by the *very same kind of abuses* that have afflicted the subsidized-interest home-ownership program (Section 235) and the extension of FHA mortgage insurance to the inner city (Sections 221d2 and 223e).

In both programs, the government enhances the housing consumer’s purchasing power without restricting him to a housing project, as under a formal housing allowance scheme. And in both it is this government-augmented purchasing power that has been exploited by fast-buck real estate artists and the con men with schemes involving “paste-up” renovations of essentially decrepit structures, bloated mortgages and inflated selling prices.

In the case of Section 235 subsidized-interest home ownership, the similarity to a formal housing allowance is readily apparent, especially when this section has been used to finance the purchase of used rather than new housing. (Used housing is what families receiving an allowance would most often require, and where the most frequent abuses in the program have occurred.)

The subsidy under 235 makes up the difference between 20 per cent of a family’s income and the monthly

mortgage payment; under a typical housing allowance proposal, it would make up the difference between a similar percentage of income and some average housing cost calculated for an area on the basis of Bureau of Labor Statistics figures. Under 235 the government commits itself to providing the subsidy after the family has found the house it wants, and the FHA pays the funds directly to the bank; under a formal housing allowance, a money grant may be given or promised a family in advance of its search for a new home, and the family itself may get the subsidy to pass on to the bank and to other providers of housing services.

But aside from such differences in detail, the process is the same: the government increases the housing consumer's purchasing power without forcing him into a traditional project. And one need not stretch one's imagination far to envision the same type of exploitation, with the collusion and ineptitude of government employees involving building inspectors assigned to certify the soundness of housing rather than the FHA appraisers who are supposed to police 235.

In the case of inner-city mortgage insurance—in which the speculators' abuses may have been even more rampant than under 235—the parallel with a housing allowance is not as apparent because there is no money subsidy. Rather, the program makes home ownership possible for low-income families by arranging *circumstances* in their favor: small down payments (as little as \$250) and high prospects that mortgage lenders will extend credit to such families (the program encourages this cordiality by transferring the lending risk from the bank to the government).

But the result—a possibility of home ownership that would otherwise not exist—is no different than if the family had its purchasing power enlarged by cash. And if swindlers have so readily exploited a program based on the government's mere agreement to underwrite the credit of the poor, who can doubt that they will be quick to exploit a program that puts cash right into the hands of the poor?

In short, the housing allowance, contrary to the hopes of its many enthusiastic supporters, is no cure for windfalls and profiteering. And if the allowance method were to become the dominant approach, with rental as well as purchased housing included, the total economic and social costs of the perpetuated abuses could well be as great as the total costs of the several kinds of present abuse. One need think only of the countless decrepit tenements that would suddenly be patched over with a few cans of paint to qualify as "renovated" for allowance-receiving families. (Anyone pointing this out may find himself called a "mouthpiece" of the high-powered home builders and investors who oppose adoption of an allowance system to replace the construction-oriented programs that benefit them so handsomely. But this charge cuts both ways. If the builders and tax-shelter-seeking investors find programs like Section 236 apartment development a boon, the rental slumlords and quick-buck rehabilitation sharpsters are equally keen for a widespread housing allowance.)

The other asserted advantages of a housing allowance

are equally uncertain. There is, for example, the matter of overall cost effectiveness. Allowance proponents note that by 1978 present programs would require an annual federal expenditure of \$7.5 billion on housing subsidies to benefit about 7 million low- and moderate-income families. By contrast, they maintain, allowances to that amount could assist twice as many families.

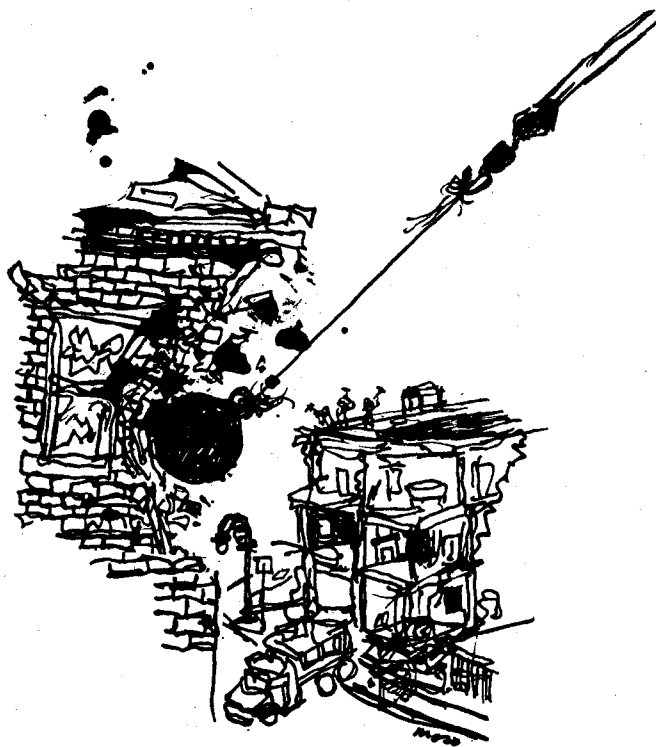
Such arguments are based on studies like those done by Frank de Leeuw of the Urban Institute. He has projected that an allowance program designed for some 13 million to 17 million families would cost from \$7.4 billion to \$9.5 billion a year. (That, as of 1969, is the number of families believed unable to afford adequate housing at a reasonable percentage of income.) His estimate is based in part on the following: \$5.1 billion to \$7 billion as the original cost of the allowance itself; \$0.7 billion to \$0.9 billion as the cost of administering the program (determining eligibility, verifying rents and inspecting the housing to assure that it is in decent condition), and \$2 billion in higher housing costs caused by a large-scale allowance system itself.

But de Leeuw notes that, at best, his projection is only "a crude estimate," and many veterans of the battle for better housing agree. Remarking on the uncertainty as to just how high administrative costs would run, Albert A. Walsh, former housing and development administrator of New York City, says: "My own experience is that as soon as you have this kind of program, there's an immediate demand for the government to see that the money is used for better maintenance—for expensive inspection programs requiring a tremendous bureaucracy to administer them."

That intensive monitoring, code enforcement and consumer education would be needed to avoid pouring government dollars into tenement ratholes has been amply demonstrated not only by the misfortunes of Section 235 used housing and inner-city mortgage insurance but by the shelter-allowance portion of the welfare program—as direct a housing allowance as anything has been to date. In recent years, according to one estimate, about \$1.5 billion of the nation's annual welfare payments has been allocated to housing. Much of this has been nothing more than a subsidy for slums.

But perhaps the greatest uncertainty is the extent to which a large-scale allowance program would inflate the cost of existing low-income housing without improving its quality. De Leeuw, after an examination of income and rent-rise patterns in various cities over the years, has concluded that only "one-quarter to one-third" of the increased housing demand stimulated by a comprehensive allowance system would act to drive up costs in relation to services received. "Most of the increase in housing demand—say two-thirds or three-quarters of it—would in the long run lead to better housing."

But de Leeuw concedes that this is "a highly tentative judgment." Other experts hold that more meaningful precedents can be seen in the previously mentioned welfare program, the shelter-allowance portion of which has had little effect on improving the quality of housing for the poor, and in the nation's experience with medical care. Referring to the adoption of such programs as



Medicare and Medicaid in recent years, Anthony Downs, senior vice president of the Real Estate Research Corporation, remarked:

Recently, we did not use money to expand the supply side of the market—which would be equivalent to building more houses—but only to expand the demand side of it. The supply happened to be inelastic, it did not rise with demand, which resulted in a terrific increase in the price of medical care. So a large part of the increase in the public cost of medical subsidies simply represents income for doctors, hospitals, and so forth.

As a result, Downs and others feel, any direct-grant strategy in housing “must be accompanied in many markets with some action to expand supply. . . .”

The ability of an allowance to promote racial integration is also debatable. As long as racial discrimination in the sale and rental of housing remains entrenched—and it persists, despite laws and court decisions to the contrary—it is ludicrous to think that putting a few more dollars into the hands of poor minorities will provide them with *real* “mobility in the marketplace” (a favorite phrase of allowance proponents).

As for avoiding the frequent controversies that erupt over plans to build low-income projects in middle-class areas, how long would it be before a large-scale allowance system produced equally bitter controversies over providing the minority poor with “handouts” so that they could compete *en masse* for housing in middle-class neighborhoods? The truth is that *any* vigorous attempt by the government to help break down the barriers of residential segregation will be resisted, whether the attempt is made through subsidizing buildings or subsidizing families.

Similarly, though “stigma-bearing” housing projects might be avoided under an allowance system, they could

as well be avoided under construction-oriented subsidy programs if the housing built could be widely scattered throughout the nation’s metropolitan areas, and if they could contain design features that made them less “institutional.” But that would mean removing the pressures arising from restrictive suburban zoning laws and from the continuing inadequacy of housing funds in relation to need.

Given the many unknowns cloaking an allowance approach, and the glaring shortcomings of existing programs, what course should Washington follow in its housing policies? One course it should *not* follow, many vigorously feel, is to react as the Nixon Administration has done—by cutting off virtually all new housing subsidies with one slash of the knife. (Some critics of the Administration are convinced that the White House latched onto the recent scandals as an excuse for abolishing programs that some powerful members of the inner circle have long disliked on ideological grounds.) It would be equally unwise for the federal government to succumb prematurely to the lure of a cure-all that could turn out to be as toxic as the present remedies. The rational course is to experiment fully and carefully with such uncertain alternatives as the allowance, and, meanwhile, to reform existing programs drastically.

As noted, Washington has begun to test the allowance approach, but there is a good deal of worry, both inside and outside the Department of Housing and Urban Development, that the experiment will not be permitted to run its full course, and that a policy decision will be made in favor of allowances before all the meaningful returns from the pilot project are in.

As now conceived, the experiment will involve about 20,000 families in a dozen metropolitan areas. Three basic matters will be examined: the effects of an allowance on participating households, the best ways to administer an allowance program, and the impact of an allowance on the local housing supply. The first two inquiries will be pursued in pilot projects expected to run for as long as three years. The third—the all-important market experiment—is scheduled for five years, because of the longer time needed to assess the effects of allowances on the cost of housing. Furthermore, that test will be conducted on the largest local scale, with some 5,000 households being involved in each of two areas—the Green Bay, Wis. metropolitan area (population 158,000) and a second area, similar in size, still to be announced.

Those conducting it feel that the scale of the market-impact experiment—about one-tenth of the population in the areas involved are to receive housing allowances—will be sufficient to provide reliable indications of the potential effects of a general allowance system. However, some aspects of the experiment make one wonder whether it really will uncover all the inherent problems in a national allowance program.

The HUD project is being carried out with the least possible publicity, to avoid the premature ballyhoo that has often accompanied new housing programs in the past. While this discretion is certainly desirable, it introduces a factor that could be crucial. The general

public awareness that would accompany a fully adopted allowance program will have a marked influence that cannot be measured in a quietly pursued experiment. How much more active would speculators, blockbusters and other potential abusers be amid a widely discussed system of allowances? How stable would middle-class areas near minority ghettos be amid such a system? Quiet experiments will not necessarily indicate all that could occur under an allowance setup that was a generally recognized staple of government housing policy.

That is one reason for caution when evaluating such previous allowance experiments as one that has been under way in Kansas City, Mo., since 1970. Involving some 200 families as part of the local model cities program, the project—believed the first of its kind in the country—has been deemed successful by its sponsors, who say it has provided participating families with sound housing at costs lower than under earlier programs, and has avoided exploitation by realty interests and resentment in middle-class neighborhoods. But the Kansas City project has been deliberately muted, with publicity held to a minimum, because officials felt that such an approach would cause less uproar and would escape charges of blockbusting.

The Kansas City experiment must also be taken with a grain of salt because of its scope. The effect on the market in a locality the size of Kansas City of 200 poor families whose rent-paying or home-buying ability has been substantially improved is far different from the impact of such sharply increased capability when thousands of poor families are involved.

In short, large-scale experimentation is the only real test—pilot projects in which a few entire cities serve, in effect, as laboratories for an allowance approach on a national scale. Granted, such a procedure must seem agonizingly drawn out to those frustrated by present programs, but only patient experimentation can give the nation some reasonable assurance that a housing allowance approach does indeed offer more promise than peril.

Meanwhile, reform of present programs cannot wait, and the following changes are needed as a minimum (and, many hope, will be sought by Congress as the preferable alternative to the Nixon Administration's wholesale freeze):

(1) All connection between the FHA and subsidized housing programs must be severed. Although the current abuses stem partly from basic weaknesses in the programs themselves, maladministration by FHA has contributed probably even more than have the structural flaws. And the reason goes beyond simple venality. Ever since its establishment four decades ago, FHA has been "industry-oriented and industry-controlled," as Rep. Shirley Chisholm put it. It has proved itself utterly incapable of understanding the housing needs of the poor, and it looks to be incorrigible in this respect. An entirely new apparatus, staffed by consumer-oriented people with an appreciation of the urban crisis, is urgently needed. FHA should be limited to underwriting mortgages for middle-income housing in sound areas.

(2) The approach whereby the government subsidizes interest on market-rate mortgages obtained from tradi-

tional lenders—the heart of the Section 235 and 236 programs—should be replaced by direct government loans to developers and purchasers of lower-income housing. Although the latter method is more costly in the short run (the amount of the full loan immediately appears as a charge to the government), it is cheaper over the long run. According to Controller General Elmer Staats, such a change could over the next five years save Washington as much as \$2.2 billion (an amount that reflects a subsidy for banks and not people).

(3) The tangle of existing federal subsidy programs should be consolidated into a single setup that would apply to all federally aided rental and purchased housing, whether built by local public authorities, nonprofit organizations or limited-profit developers. If that were done, separate developments would no longer be built for poor and lower-middle-class families; rather, *any* family certified as unable to afford decent quarters in the private market would be eligible for residence in the subsidized housing. Apart from bringing rationality to Washington's housing policies, this approach would permit subsidized developments to include a relatively broad range of incomes and would contribute toward racial integration.

(4) The "housing problem" must be viewed not simply as a matter of replacing bad structures but as part of a totality—the urban or rural slum—whose elements cannot be remedied separately. This may seem obvious in 1973, especially to those who have seen the futility of putting up new housing in areas that remain as depressed as ever in regard to jobs, schools, drug abuse and municipal services. But it never was obvious to the Nixon Administration and still isn't. While striving to realize the production goals of the 1968 Housing Act, the Administration was also seeking to cut back sharply on the provisions of the Act which relate to such programs as model cities and urban renewal. Flawed though these programs are, they still reflect a basic need for comprehensive approaches to community redevelopment that Washington cannot abandon.

(5) The management of subsidized housing must be given equal emphasis with the creation of such housing. It is not a sufficient federal role to provide funds for housing construction and then leave it to the private sponsors to tend the results. That is especially true when—as is often the case today—sponsors of subsidized housing are attracted more by short-term tax-shelter advantages than by the prospective returns from long-term ownership. Top priority, not just public relations lip service, must be given to operations such as the newly formed National Center for Housing Management which, if you can believe the HUD press releases, "will be instrumental in training 60,000 housing managers needed to operate the 5 million federally assisted rental housing units to be occupied by 1980."

Other steps are also required (the above list is not meant to be inclusive), but these alone will require a revolution in Congress and the Administration. Yet it would be far safer to spark that revolution than succumb prematurely to the lure of a promised remedy—like the housing allowance—that could turn out to be just one more massive dose of bad medicine. □

BOOKS & THE ARTS

Anybody Here Seen Pushkin, Russian Poet of Genius?

PUSHKIN THREEFOLD. Edited and translated by Walter Arndt. E. P. Dutton & Co. 455 pp. \$12.50. Paper \$4.95.

GUY DANIELS

Mr. Daniels' latest books are the novel, Progress, U.S.A. (Macmillan), Russian Comic Fiction (New American Library), and his edition of The Complete Plays of Mayakovsky (Clarion).

Nous n'avons pas la tête pouchkinienne: we just can't seem to do right by Pushkin. Of the numerous books in English about him, the only one that is really first rate is a critical study: John Bayley's *Pushkin: A Comparative Commentary*, published by the Cambridge University Press in 1971. But this situation is as nothing compared to the translation scene—especially when it comes to the poetry, of course of course. *Eugene Onegin* has by this time become a synonym for the kind of fortress that is impregnable to the assaults of even the doughtiest translators. And things are almost as bad with the rest of the corpus. Before Professor Arndt's book appeared, representative samplings of the poetry were to be found in only two collections, both of them badly flawed, which considerably overlapped each other. I refer of course to the well-known *Poems, Plays, and Prose of Alexander Pushkin*, edited by Avrahm Yarmolinsky and published by Random House in 1936, and the *Dell Pushkin* in the "Laurel Reader" paperback series, edited by the late Ernest J. Simmons and published in 1961.

Problems of translation aside, the job of selection in both of these cases was well done. Yarmolinsky, in particular, made excellent choices for the almost 900 pages of his Modern Library Giant. For that matter, much of the prose in his volume is rather well Englished; and I still maintain that the Elton version of that fine narrative poem, "The Bronze Horseman," is about as good a one as we are likely to get. But oh, my God the lyrics! There are forty-seven of them, all but four translated by Babette Deutsch. Of those four, one is by Maurice Baring. It begins:

*I've lived to bury my desires,
And see my dreams corrode with rust;
Now all that's left are fruitless fires
That burn my empty heart to dust.*

There is really nothing one can say about this kind of performance, except

perhaps to note that neither the rust, the fires, nor the dust can be found in the original.

Another is Max Eastman's often anthologized version of the so-called "Message to Siberia," beginning:

*Deep in the Siberian mine,
Keep your patience proud;
The bitter toil shall not be lost,
The rebel thought unbowed.*

No, indeed, the "rebel thought" shall not be unbowed. As far as I can see, it will be bowed and bowed and bowed from here on in.

Both of the above, surprisingly enough, were chosen by Simmons for the *Dell Pushkin*, along with another thirty-odd similarly donnish efforts, and these were eked out with a dozen of Miss Deutsch's versions to make up a total of forty-six lyrics. Except for the names of Miss Deutsch and one or two others, the table of contents reads like a *Who's Who* of British dons dabbling in Russian verse. Pretty sad, when you think this is the only paperback collection of Pushkin's poetry in print.

And what of Miss Deutsch's versions? (I mean of course the forty-three which first appeared in the Yarmolinsky volume.) Surely she, a practicing poet, would do better than the likes of Maurice Baring. Alas! As we've known for three decades now, Miss Deutsch did only slightly, if at all, better than the dons. But even if this is *etwas bekanntes*, the causes of her failure are still, I think, worth looking into.

The kind of troubles that plagued her are well illustrated in two anthology pieces, both originally addressed to the memory of Amalia Riznich, one of Pushkin's mistresses in Odessa. The first is "Beneath the Blue Sky of Her Native Land." As rendered by Miss Deutsch (who calls it "Beneath Her Native Skies") it begins:

*Beneath her native skies she languished
and she drooped,
And now at last she has departed;
Perhaps the fair young ghost a moment
o'er me stooped,
A shadow broken-hearted.*

In fairness to Miss Deutsch it must be reported that in the revised version of this poem reprinted in the *Dell Pushkin*, the broken-hearted shadow has been excised. But the other awkward-

nesses remain—most of them due to the tyranny of exact rhyme. It is this tyranny which drives Miss Deutsch from one extreme to the other, so that throughout the section of forty-three lyrics she oscillates wildly between awkward exact rhymes and cop-out ballad rhyme (ABCB) which traduces the harmonies of the original. This latter is especially evident in the second of the two poems addressed to the memory of Riznich, "For the Shores of Her Distant Homeland," which Deutsch calls "Abandoning an Alien Country":

*Abandoning an alien country,
You sought your distant native land;
How could I stop the tears at parting
When sorrow was beyond command?*

The general idea here seems to be: if you can't make 'em rhyme exactly, don't let 'em even come close to rhyming. And so we get such clashes as (taking them in order): country/parting, colder/anguish/, clinging/exile, reunited/olives. Assonance is avoided almost resolutely.

Yet an artful use of assonance could have saved much here. And not just here, for the fact is that assonance comes closer to the effect of Russian feminine rhyme than exact English rhyme does. This is true not simply for the familiar reason that English rhyme is more emphatic than rhyme in a highly inflected language, especially in the feminines. It is true for the additional reason that Russian weak syllables are very weak indeed (there is nothing comparable to the English secondary stress), so that feminine rhymes are often nothing more than a whisper.

One conclusion emerges from all this: the tyranny of exact rhyme, in translating Russian poetry into English, never really existed. Like the Hollywood Production Code, it was self-imposed; and by this time it is simply ignored by most able practitioners.

Given such a great improvement in the state of our knowledge of the craft, we are, I think, justified in expecting a great deal from Professor Arndt's *Pushkin Threefold*. After all, he is up on all these things. As the flap copy tells us, he has not only won a Bollingen Prize for translation and been department chairman at both Dartmouth and Chapel Hill, but he has also published books in the fields of linguistic theory

and something called glottochronology. (Whether he has published any poetry of his own in English the flap copy does not say.)

Certainly he has set about his task very differently from his predecessors, printing, for each poem, three different texts: the original, a crib and a version with a formal structure that is sometimes called "metric," at other times "rhymed." The first question to be asked about such a book is not whether it was done well but whether it should have been done at all. Or, to put it another way: Precisely for whom is such a book primarily intended? For that most abused of whipping boys, the general reader? Hardly, since he, who cannot read the Russian text, is cheated out of about 155 pages because of it. And if he doesn't want the cribs either—something many a general reader can do nicely without—he is short-changed another 150 pages.

Is *Pushkin Threefold*, then, primarily intended for the student? Apparently it is, according to a paradoxical statement of purpose found in the introduction. There Professor Arndt explains that he has provided his book with relatively few footnotes because too much footnoting "... tends to leave the instructor who may use the book feeling under-employed and thwarted." In other words, because the book is primarily for students, it is left pretty much unannotated. I find this kind of reasoning curious. Even more curious is the fact that, while many items of information critical to an understanding of the poems are omitted, there are a number of superfluous notes that are downright silly; e.g., one identifying the Rubicon.

But whether they have heard of the Rubicon or not, students interested in Pushkin to the point of consulting cribs will have very little need for *Pushkin Threefold*. They will not for the reason that, of the important poems there included, most can be found in the Penguin *Pushkin* and the Penguin *Book of Russian Verse*—where, moreover, they are provided with more accurate cribs than Arndt's.

So much for what was apparently his primary intent in putting together this rather expensive little book. But I have a hunch that he had another kind of audience in mind, along with the students. It appears to me, from Arndt's tone in his introduction, that the winner of the Bollingen Prize, who has published in *Playboy*, has composed a kind of *Art of Translation* for the delectation of his colleagues. Hence, I suspect, the many throwaway poems he has selected. Hence, too, perhaps, the omission of some very basic anthology pieces ("The Prophet," "Autumn," etc.), so that the

section called "Shorter Poems" is badly out of balance as compared to the "Narrative Poems, Fairy Tales, and Ballads" constituting the rest of the contents.

Here, then, is what his colleagues will find when they open *Pushkin Threefold* to the first page:

*Of that exalted son of Gaul
Point me the footsteps all admired—
In whom 'mid storied ills, recall,
You once audacious hymns inspired.*

Well. I must admit that whatever connection there may be between this and Pushkin escapes me completely. (Maybe if I studied glottochronology?)

How do these horrors happen? Was Arndt—whose grasp of idiomatic English is in any case shaky—bemused by the inversions in the original to the point of reproducing them? Not at all. The text in Russian (which can of course accommodate inversions as English cannot) is perfectly straightforward. The man-dog-bite word order is strictly of Arndt's own making, in a feat of such miraculously bad translation that one cannot but admire it (in the old sense of the word).

Here's what we find at the top of the next page:

*Unstained by human freedom choked
A sovereign's brow alone is carried
Where sacred liberty is married
With mighty law and firmly yoked;*

Quaeritur: Just what in hell does this mean? I recognize the language, of course. It's Shmenglish, the same language in which (elsewhere in the book) oceans have "banks" instead of shores and dry "out" instead of up. But not being very good at Shmenglish I couldn't possibly translate this—or the numerous other passages like it—into American for you.

On the opposite page I find "roaming" rhymed with "gloaming." Long time no see. Let's check the context:

*... The singer finds his gaze and
thought
The tyrant's lonely statue roaming,
Its ominous torpor in the gloaming,
And the forlorn imperial court—...*

I for one, will go no more a-roaming through the "Shorter Poems," having already roamed there enough to assure you that while that section of the book contains (necessarily) a few poems not quite this bad, it boasts others even more monstrous; e.g.:

*... Till purling streams of love, full-
charged with thee, run through me,
Then, shimmering through the dusk,
thy lustrous eyes turn to me. ...*

Whatever Ralph Nader is doing right now, I demand that he drop it immediately and launch a full-scale investigation into the scandalous conditions that make

possible the publication of a book like *Pushkin Threefold*. And while he's at it, he might just take a peek at the Bollingen Prize shenanigans. Yes, and at the awarding of two Ford Foundation fellowships to the author of the above lines.

But Arndt's credentials are not exclusively academic. It was he, after all (bold chap that he is), who published a translation of "Tsar Nikita" in *Playboy*. For the benefit of the handful of you out there who do not read *Playboy*, I should perhaps explain that "Tsar Nikita" is a bawdy narrative poem by Pushkin. Or rather, it was a poem by Pushkin: what has come down to us is a mosaic of fragments of that poem as recalled and jotted down by Pushkin's brother Leo, et al. In short, "Tsar Nikita" is next thing to apocryphal—a fact nowhere mentioned in *Pushkin Threefold*.

Be that as it may, the poem has a certain bouncing German-band tempo that does things for Arndt. So that his versions of both it and "Tsar Saltan" (another long poem based on folklore) are really quite lively.

If only he had pulled up short with this sort of thing, one might be grateful to him for a modest contribution to the pathetic corpus of Pushkin in English. But no, he had to push on further. And in so doing he exposed all of us to a frightful risk. Because the horrendous nature of his "metric" versions of the lyrics creates a very great temptation for the "free" translators, blissfully ignorant of Russian, to step in and do the job all over again. In short, because of Arndt's egregious failure we may—we just may—be in for that horror of horrors, a Pushkin Englished by Robert Lowell and imitators of the imitator. □

Belling the Cat

THE LAW OF WAR: A Documentary History. Edited by Leon Friedman. Random House. 2 Vols. 1,764 pp. \$65.

MILTON CANTOR

Mr. Cantor teaches history at the University of Massachusetts (Amherst). He is managing editor of the journal, *Labor History*.

"If certain acts in violation of treaties are crimes," declared Mr. Justice Robert Jackson, chief prosecutor for the United States at Nuremberg, "they are crimes whether the United States does them or whether Germany does them, and we are not prepared to lay down a rule of criminal conduct against others which we would not be willing to have invoked against us." Brave words, unequivocal

words; and in cruel contrast to government policies in Vietnam—whether in regard to the handling of prisoners, the use of such terror weapons as cluster bombs and daisy-cutters, the carpet bombing of cities, or the creation of free-fire zones—and to the failure of the Army's judicial machinery when confronted by the legal and human consequences of our military activities in Southeast Asia. Twenty-five years ago, activities of the kind were branded violations of the laws of war, that is, war crimes, and responsibility for them was assigned to the top military and civilian war managers; today it is the United States that, having defaulted on its international obligations under the Geneva Conventions, the United Nations Charter, and various treaties as well as executive agreements, can be held accountable.

To be sure, as Richard Minear has recently observed, international law at the time of Nuremberg was in an "unsettled state." For that matter, it still is. But the Nuremberg Charter, which also served as the model for the Tokyo war crimes trials, was an intricate application of international law principles that were rooted in common law developments. This unique two-volume collection of treaties and cases tells us as much. Edited by Leon Friedman with taste and discrimination, it suggests how, clause by clause and document by document, the laws and principles evolved, responsive to technological changes in warfare, to the growth of commerce and industrialization, to more magnanimous and humane conceptions of warfare than existed before the 19th century. Included are many of the precedents for Nuremberg: the Hague Conventions of 1899 and 1907; the 1922 Washington Treaty (with its third article which repudiated "superior orders" as a defense); and the 1925 Geneva Protocol on chemical and biological warfare. The key provisions of Nuremberg, then (as well as the London Charter, the executive agreement incorporating the Nuremberg principles, and the U.N. Resolutions of December 1946, which did the same), were in effect a culmination of a quarter century of legal and psychological preparation. They led ineluctably to the 1949 Geneva Conventions (II and IV especially, which are concerned with prisoners of war and "the protection of Civilian Persons in time of War," respectively). The Japanese Shimoda tribunal and the majority opinion of the Supreme Court in the Yamashita case are also represented by documents in Mr. Friedman's collection. But, limited to treaties and cases, these volumes do not include other literature relevant to the rules of war: e.g., Article 47 of the 1872 German Military Penal Code; Article 25 of the Basic

Law of Germany; *Soviet Military Criminal Law*; the 1958 British *Manual of Military Law* (especially Article 627, which discusses the plea of superior orders); the 1956 United States Army Field Manual (27-10) and its *Law of Land Warfare*; and the present United States Army understanding of the law of war, which is categorically claimed to be "binding not only upon States as such but also upon individuals and, in particular, upon members of the armed forces."

Mr. Friedman quite properly begins with Hugo Grotius, since *De Jure Belli Ac Pacis* set forth the theoretical building blocks for the laws of war. It proposed that states and individuals be regulated by the same rules, that there is a "law of peace," that states may punish other states that violate this law, that natural law—or right reason—was the primary basis for determining rules for the conduct of nations. And these theorems of 1625 served as the basis for what transpired after the Second World War, that is, the Nuremberg and Tokyo war crimes trials.

Mr. Friedman has also included the 1863 Lieber Code, which, according to

Telford Taylor, refutes the claim that the laws of war are inapplicable to Vietnam because they do not contemplate the unique situation brought about by civil war and revolutionary movements. In startling contrast to troop commanders today, it was two generals (Henry W. Halleck and Ethan Allan Hitchcock) who solicited the advice of the German-born Francis Lieber of the Columbia University Law School about those "laws and usages of war" that would define—among other things—the status of guerrillas operating behind Union lines. Professor Taylor, in a thoughtful and succinct introduction to both volumes, sets this code within the context of the Civil War, but also notes that Vietcong tactics can be regarded as unprecedented and unanticipated by international law "only if the past is forgotten."

This collection, to repeat, is unique; it is also most relevant today. Nor is its appropriateness limited to the functions of field commanders or the Joint Chiefs. It applies as well to those of the civilian managers (McNamara, Rostow, the Bundys, Laird, Richardson), the institutionally sanctified experts, *ap-paratchiki*, who are the creatures of a

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avored upper-class political and social selectivity. Considering the intelligence machinery at their command, it is inconceivable that these "crisis managers" could be ignorant of the social and human costs of their policies. Nevertheless, like the B-52 pilots who do their bidding, they have been able to remain detached from what they wrought. What is lacking, then, is a strong sense of responsibility; and what is operative is, in Hannah Arendt's phrase, "a system of non-responsibility." And yet the claims of any decently civilized society require that men be held accountable for their actions. Moreover, the test of responsibility is now recognized in international law—if we accept as precedents such decisions as Nuremberg and the Yamashita case. There is, then, an ascending order of responsibility and culpability from Calley and Medina. And it em-

braces elected as well as appointed officials. The gray eminences who sit on the boards of the Council of Foreign Relations, the Board of National Estimates and the National Security Council can hardly be exempted from legal responsibility if one reads the meaning of this collection properly. For these officials, notwithstanding their cosmopolitan manner and what may well have been good intentions, created the institutionalized barbarism of the Vietnamese War. That their programs have failed and their war has been lost does not seem to have made any difference to them thus far. On the contrary, they wax in prestige and income, while their social inferiors at home and millions in Asia have paid the price for their moral obtuseness. The legal precedents set forth here argue forcefully that some other payment is due. □

turned to report honestly, among them Ruth Sidel, a social worker now associated with the Child Care Project at the Albert Einstein College of Medicine. She accompanied her husband, Victor Sidel, one of the four American physicians to visit China in more than twenty years. They spent a month there. Mrs. Sidel's findings are presented in a very informative and even-handed book, *Women and Child Care in China*. It is illustrated by a number of striking photographs taken by Victor Sidel.

The "bitter past" was, as Mrs. Sidel points out, bitterest of all for China's women and children. Women were relegated to something less than second-class citizenship. Unless they were the daughters of the wealthy, their role in life consisted entirely of household drudgery, hard physical labor, child-bearing and child rearing—and all too often, child burying. They were chattels of their husbands, unable to divorce them for any reason, and virtual servants of their husbands' families. Wives had to accept concubines into their households if their husbands wanted or could afford them. If they could not, wives were expected not to complain when their spouses paid regular visits to brothels.

The lot of children was a hard one, too. Most of them were denied even the most rudimentary education, being forced to work instead. Many died from preventable diseases, including malnutrition, long before they reached the 35-year life span that was the lot of the majority in pre-Communist China. (It is nearly 60 now.)

Girl children had an even harder time of it than boy children. Unwanted because they had less earning capacity, they were frequently either drowned at birth or else sold as indentured servants, child brides or into prostitution. A change in the status of women and children was one of the first reforms instituted by the Communist government. In 1950 a Marriage Law was passed. It outlawed arranged and child marriages, as well as the purchase of wives. Women could seek divorces. Polygamy and concubinage were forbidden, as was the operation of brothels. The prostitutes were trained for other occupations. At the same time a number of measures were taken to protect children, including the abolition of child labor and the institution of universal free education.

Laws in favor of women were, however, only a beginning in the campaign to free women fully. This involved a protracted struggle against deeply ingrained traditions of male supremacy. The battle, although it continues, has

Emerging from 'the Bitter Past'

WOMEN AND CHILD CARE IN CHINA: A First-Hand Report. By Ruth Sidel. Hill and Wang. 207 pp. \$6.95.

CHARLES FLATO

Mr. Flato, who has contributed to *The Nation* in the past, is a free-lance writer, specializing in medicine. He was in China six weeks last spring reporting for *The Washington Post* and *The Nation's Health*.

Perhaps the best summary of what life was like in pre-Communist China for the mass of its people is a passage in William Hinton's *Fanshen*, a study of pre- and post-Communist conditions in a rural village: "Husbands beat their wives, mothers-in-law beat their daughters-in-law, peasants beat their children, landlords beat their tenants, and the Peace Preservation Corps beat anyone who got in the way." The Corps was made up of the Kuomintang's bullyboys.

Hinton's description of the poverty, disease and early death of people living in the countryside is echoed by others who have written about China's city dwellers. Their misery was only quantitatively different from that of their country cousins. Huddled in teeming cities, they worked in dark, unsanitary factories for long hours at wages barely sufficient to keep them alive. Whole families, including children of primary-school age, were forced to work in order to buy sufficient food for their needs. They lived in crowded hovels along streets and alleys strewn with refuse of all kinds, human waste, dead animals, even dead human beings. The only water available to some of them ran murky and dank in the

gutters. Begging was a major occupation, as was prostitution. The incidence of venereal disease was staggering. When it came time to marry, the families of young men who had a few possessions they could pawn bought wives for them. When they did not, young men got their sexual gratification in brothels or by rape. This was equally true in the city slums as it was in the countryside. Opium smoking in both places, introduced into China by foreign exploiters, was the only solace.

Now all of this has changed, and in a little more than twenty-three years. The quality of Chinese life since the Communist regime has become, if not beautiful in the Hollywood image, beautiful as the Chinese are now seeing and experiencing it. Starvation is a thing of the past; housing, if not ideal, is better. Opium is unknown, prostitution and V.D. have been wiped out. Children now go to school, not to work. The land has been taken over by the peasantry. Medical care is available to all. In short, the violence, corruption and dehumanization that was the hallmark of Kuomintang days are gone—but not forgotten.

Chinese today seldom talk about the past without qualifying it. They speak about the "bitter past." And, understandably, about their bright Red future.

Americans have been denied access to China, with a few notable exceptions like Edgar Snow, for more than two decades. The few who have been there recently for the most part have re-

been won. Women now receive equal pay for equal work, although they earn slightly less than men because hard manual labor under the Chinese "labor points" system is more remunerative. But aside from that, women now enjoy economic independence. They work at a multitude of jobs: as factory workers, engineers, bus drivers, policewomen, airplane pilots and stewardesses (but there are also male stewards), teachers, economists, research scientists, and as soldiers in the People's Liberation Army, to name a few. Those fields traditionally reserved for men are beginning to open up to women, but, according to Mrs. Sidel, not rapidly enough. "Women," she writes, "are entering the professions, but they do not seem to hold leadership positions in great numbers. No doubt, the lag must be due to some extent to the relatively recent training of women professionals." She predicts that within a decade or two women will occupy positions of leadership in appreciable numbers.

One question frequently asked people who have visited China recently is about the sexual role of women. Mrs. Sidel answers it: "The Chinese have eliminated most outward forms of sex differentiation. . . . Women's clothing is purely functional, designed to cover and protect, not to delineate or arouse." She adds that "the Chinese attach no sinful feelings to sex. . . . Sex is regarded as a natural function, but a private one. There is, of course, no profit to be made under Chinese communism by exploiting sex. How much have our sexual attitudes in the West been influenced by commercial exploitation of sexuality? Have we perhaps accepted the advertising man's dream as reality?"

In no other social area in Chinese life have such profound changes taken place as in the care of children. Because most women now work, the child-care system is highly organized and covers most activities of children, literally from cradle to adulthood.

Mrs. Sidel characterizes the Chinese child-care system as "multiple motherhood." But, contrary to what is widely believed in this country, Chinese children are not snatched away from their parents by the state. They spend as much time with them as their parents' work schedules allow. "The family," Mrs. Sidel writes, "is still an important part of Chinese life." But, she adds, other childhood relationships "are also important and many other influences now come to bear on the individuals' thinking," continuing ". . . the beginning of the process of educating the new human being the Chinese are trying to fashion."

Extremely readable, with no social

work jargon to get in the way, *Women and Child Care in China* is primarily intended for the general reader, although specialists in child care will find a good deal in it that has not yet appeared in the professional literature.

And as a footnote: It is recommended as required reading for Richard Nixon. It is unlikely to change his opposition, despite his trip to China, to such things as federal support for day-care centers for the children of working mothers, school lunch programs, and more money for our near-bankrupt educational system. But it might awaken him to the role of such programs in promoting the kind of social cohesion that our own country has been more and more painfully losing. □

THEATRE

HAROLD CLURMAN

The Circle Theatre Company at 2307 Broadway (83rd to 84th St.) offers the best cast and the truest ensemble acting now to be seen in New York. It is appearing in Lanford Wilson's *The Hot L Baltimore*. Unless extended, the run will terminate on March 4 to be followed by a production of Ibsen's *When We Dead Awaken* opening March 15.

The Circle Theatre, consisting of a permanent acting troupe, playwrights, designers, etc., was founded in 1969, but I had never before seen any of its work. What I found more important than my pleasure at this single event, is the existence of a company (occupying a space that leaves room for less than 100 seats) which has held together for four years in relative obscurity. It is also worth special note that Lanford Wilson wrote his piece for the people who act it and that it is well staged by the company's founder and artistic director, Marshall Mason. The company's capacity to test itself in dramatic material outside the range of Wilson's text should in the future give us some idea of its ultimate value. But even now it possesses a character of its own, an identity or "face," related to a particular place in the community.

The term "ensemble playing" needs definition because the rhetoric of theatre commentators tends to be loose. In the ensemble or "team" of the Circle Theatre there is genuine communication between actor and actor: they live in the same world, they are integral with their environment and are expressive of it. In the case of a production like Jean Kerr's *Finishing Touches* the

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MARCH/APRIL CONTENTS

ARTICLES

Henry C. Wallich and Mable I. Wallich: What Have We Learned About Inflation? Peter L. Bernstein: Can You Forecast the Stock Market? *Challenge* Interview: Herbert Stein, Chairman of the Council of Economic Advisers: The Principles Behind the Policies; James Tobin: The Economy of China: A Tourist's View; Robert M. Solow: Is the End of the World at Hand? The Economic Growth Controversy; Anwar Sheikh: The Intelligent Reader's Guide to the International Monetary Muddle; From the Editor: To the Lilies of the Field Who Toil Not

REVIEWS

Robert Lekachman: Keynes in the 30s; John Owen: *Inequality* by Christopher Jencks; Lynn Turgeon: *Redistribution to the Rich and Poor* by Kenneth E. Boulding; Martin Bronfenbrenner: *What's Wrong with Economics* by Benjamin Ward.

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actors are individually excellent but we appreciate them as actors only, not as *people* in a context which extends beyond the setting and stage where we find them. There is no actual flow or connection among them, apart from their professional task. Each player is giving his or her own performance. In the *Hot L. Baltimore* the actors are characters in and of themselves, but they appear to draw a good part of their being through a connective tissue of mutual experience in a common milieu.

It is very difficult to achieve this coherence in the circumstances of commercial theatre production. Not only is time needed but the actors must be chosen from among people who share kindred ideals, training and emotional or intellectual background. And they have to stay together long enough to acquire a spontaneous sense of one another. Only then will they become one with the entire fabric which constitutes the real *play* in the theatre. Such circumstances occur when the formation of the company has been well prepared prior to the time of active production.

That is what has happened with the Circle Theatre in the Wilson play. The "secret" of its effectiveness is that one can barely distinguish between the script and the acting. The text is too long—at least twenty minutes might be cut

—and that may lead one to suspect at the end that what has been presented is only a thin slice of life. But what a relief it is to come upon a slice of *life*, rather than a contraption of showmanship or aesthetic pretension!

The hotel of the title is one of those handdog spots, remnants of once respectable establishments and emblematic of the neighborhoods and cities in which they are situated. Here the indigent elderly, bereft of family ties, vegetate, and call girls work their trade. The clientele is a body of displaced persons, forgotten folk who have abandoned hope and made insecurity a way of life. (I regret that Wilson didn't make more than one young girl something other than a tart, or present more than one person among all these forlorn creatures who moves on an ascending path.) One character does spend most of her time trying to protect a kid brother who is either retarded or frightened silly. And a young man is in quest of his grandfather, whom the boy's parents have cruelly neglected. Also, a mother comes to rescue a son whose excessively erratic behavior makes him subject to eviction wherever he settles. Now everyone is being kicked out: the hotel itself is soon to be torn down. The hotel is in Baltimore, but upper Broadway, where the play is running, is full of "joints"

very much like the Baltimore. They are typical of the soiled fringes of our towns: "the middle-lower depths."

Wilson's writing is salty and vivid; his observation accurate and compassionate, marked by a not entirely poisonous humor. The verisimilitude does not descend to crass naturalism; still the transcendence or "lift" of the play springs largely from the acting. I should like to list everyone in the cast; no performance is merely perfunctory or casual. All are part of the picture.

Most notably, Mari Gorman sets the key to the evening: she plays the vagrant girl who tries to find a proper resting place for her shattered brother. Her intense, colloquial, semi-articulate stammering is borne aloft by her passion to force conditions to her need. The result is as touching as it is funny. Helen Stenborg as a retired lady, the passivity of whose retreat serves as balm in the surrounding atmosphere of injury, is eloquent in a minor key. Conchata Ferrell as an epic hooker projects health and refreshment by the very acceptance of her own cynicism. Trish Hawkins, as a pretty call girl in whom the light of imagination and kindness still burns, strikes a necessary note of mutilated lyricism. Rob Thirkield as an old grouch is as crusty as the peeling walls, and handsome Jonathan Hogan as an independent, intelligent youth, resolutely unconforming not so much from resentment as from integrity, supplies a sound note in the lunatic, melancholy discord.

Two marginal considerations came to mind as I watched the play at the Circle Theatre. First, that realism, which certain theatre connoisseurs are constantly assuring us has shot its bolt, still has much to offer—especially in the United States. The fashionable denial of realism's worth often seems to me an evasion, prompted more by disgust with or fear of contemporary civilization (which I can well understand) than by special powers of thought or acute sensibility. Second, I was impressed once again by the quantity of talent, or at any rate potentiality for theatre accomplishment, that must be going to waste for lack of means to develop it.

At *Warp*, a production of the Organic Theatre Company of Chicago, I was struck by the energy, agility, physical courage, sense of fun and, in several instances, attractiveness of the young players. They—Carolyn Gordon, John Heard, Cordis Fejer, Tom Towles, Richard Fire—throw themselves about with the abandon and resilience, if not the grace, of a ballet company.

The show itself (Ambassador Thea-

HOTEL LENOX

*And she loved loving
So she woke and bloomed
And she rose.*

*And many men had been there
To drowse awake and go downstairs
Lonely for coffee and bread.*

*But she drowsed awake lonely
For coffee and bread.*

*And then we were so happy to see the lovely
Mother who had been her mother a long time.*

In this city broken on the wheel

We went back to the warm caterpillar of our hotel.

And the wings took.

Oh lovely place,

Oh tree.

*We climbed into the branches
Of the lady's tree.*

We birds sang.

And the lemon light flew out over the river.

James Wright

tre) astonished me because, for one thing, I have never been caught up in the science-fiction-comic strip cult. One might call it an illiterate and popular camp form of the playfulness one finds in Miró and Klee! It serves the function of escape from a technologically mad society by the simple-minded who at the same time are indiscriminately and thoughtlessly excited by it.

What was phenomenal on the opening night was the horde of fans who flew in from Chicago to cheer their heroes; they wore "Warp" buttons and reacted somewhat as did the youngsters who once swooned for Frank Sinatra at the Paramount or as a later generation whooped it up for the Beatles.

The more adult in the audience seemed benumbed by the spectacle: it struck them as silly, vulgarly childish, dismaying. But I could only regard the evening—apart from my liking the full-bodied commitment of the performers—as a sociological curiosity. To paraphrase an Odets line: the American family tree is bearing nuts.

In the afternoon, before attending *Warp*; I saw Peter Handke's *Kaspar* at the Chelsea Theatre atop the Brooklyn Academy of Music. Handke is the *enfant terrible* of the contemporary German theatre—an appellation which may strike many as literally applicable. It is still a moot point whether Handke is merely a symptom or a dramatic poet in quest of "new forms."

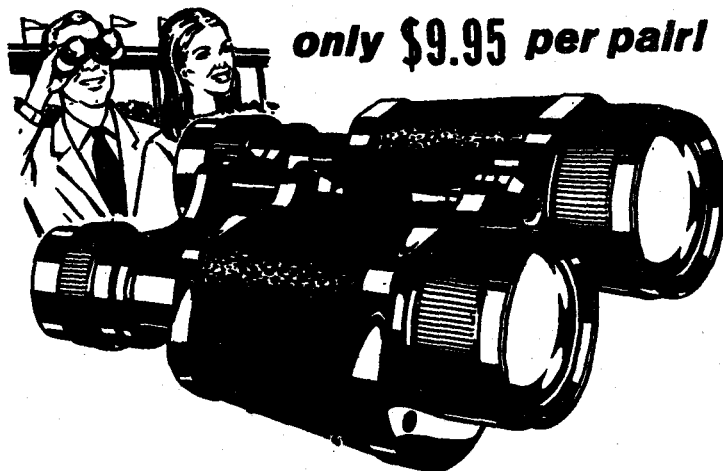
His work reveals a mixture of the German proclivity to metaphysics and the equally German romanticism of ecstatic suffering (linked with outraged humor) which produced expressionism and other sorts of modern art—good as well as bad. Their roots lie deep in the national temperament, of which examples in all the arts go back a long way. Another national characteristic is the longueurs in which many of these artists indulge. In respect of time, their art is not minimal.

Kaspar is a play—virtually a monologue—about the gap between language and reality. Language, Handke is saying, shapes and malforms us. It twists our heads because it does not correspond to what we actually see or feel. Words are deceptive; they cripple our perceptions. Language thus becomes the mind's and soul's strait jacket. Sayings which may once have conveyed truth are so eroded from constant abuse they have become falsehoods. Language is a hypocrite.

I don't know whether Handke or the director Carl Weber thought of the multiple TV accompaniment to the writing,

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in which various screens reproduce the stage action but nearly always out of "synch." It emphasizes the dimension of fractured presence which the play seeks to embody.

What chiefly absorbed me in this presentation was Christopher Lloyd as Kaspar, the spastic victim of linguistic confusion. His vocal, mnemonic, phonetic and physical achievement (without being devoid of feeling) attains virtuoso proportions. He kept me watching and listening to him long after I had gathered and become weary of Handke's point. □

FILMS

ROBERT HATCH

Perry Henzell, a film maker hitherto unknown to me, has written, produced and directed *The Harder They Come*, a rough, seamy, funny and memorable folk elegy, set in Kingston, Jamaica. Jimmy Cliff, who plays Ivan, the hero, is a well-known singer of the indigenous rock, and I assume that the other leads are taken by at least semi-professional actors. But the film is fleshed out from the back streets of Kingston, the patois of English so extreme that Henzell has frequent resort to subtitles.

Ivan is a country boy, brought to the city by a death in the family. In proper picaresque fashion, he catches on to the ladder of success with almost alarming speed, but unlike Dick Whittington he lands not in the mayor's chair of office but on a slab in the morgue. Skin color may be a factor here, though Ivan's more immediate difficulty is that he displays a sense of self-interest that is perhaps excessive for an apprentice to the local rackets. Ivan works first for a revivalist preacher; he gets in trouble there when his eye falls on the adopted daughter of the more than paternalistically jealous clergyman, and a court judgment that he be whipped at the police barracks really seals Ivan's fate. He does not propose ever again to be stripped to the waist and tied over a barrel, and eventually he takes to killing policemen to avoid the possibility.

Before that, however, Ivan has taped

an effective song (the title song) for the local supplier of 45 rpms to the Kingston disc jockeys and then refused to sign a release for a \$20 fee. Soon, he falls in with the marijuana syndicate, riding a Honda out to the grass plantations and bringing in bags of the stuff under the benevolent watch of the highway patrol. It is a lucrative trade, as Ivan demonstrates in his dress, but what he earns is derisory by comparison with the profits to his unseen and unknown superiors, and the sense that he is undervalued again makes Ivan recklessly outspoken. Word is passed up the line that a few days in a cell would do the young man no harm, and Ivan, not to be caught, spins into a wild, hallucinated dance of death.

Jimmy Cliff is handsome, vividly predatory, possessed of a nice feeling for comic outrage and romantic exaggeration. He is very persuasive in the part except when he is cutting the record. Then, Cliff reverts somewhat disconcertingly to the person he really is, a sophisticated local singer who has looked with approval on Mick Jagger. But except for the one scene, he re-creates once more that classic figure of myth, the young hero fatally touched by invulnerability.

The Harder They Come is an excitingly violent, deeply appealing picture; it is also a disturbing study of a post-colonial society in ruins. There may be white men, off there somewhere, still exploiting the hell out of the situation, but the only presumably white man you see is Bobby Charlton, as the snarling record magnate. For the rest, the blacks—from police chief to clergyman to bar-room pusher—are diligently exploiting one another. Exploitation is the ugly side of beautiful Jamaica; it is also perhaps the only trade that colonial peoples really learned from their masters.

Confirmation of that gloomy supposition comes in a way from Ousmane Sembene's *Emitai*, which has just ended a too-brief first run in New York. Sembene is a Senegalese novelist and film director, and the subject of his present movie is a village in Senegal, then a French colony, early in World War II. The French have stripped the community of its young men for Pétain's army; now they are back for the village's rice. Against modern arms—in the hands of native troops, at least one of whom comes from the village itself—the Africans are quite helpless; but they are also a remote community, hitherto almost untouched by colonial intervention, and they cannot accede to a demand that seems to them unintelligible. The rice is essential, not so much for food,

IS THIS IT?

*Is it the hollow of
birdbones? This
calling like a shriek
shrieking and knowing
no answer will come.*

*Or, this driftwood?
This sliver of driftwood
I hold in my hand,
silver as shavings of moon
wet in the harbor.
Its secret thinness, is this it?*

Anne S. Perlman

but to be used in rituals, and there is no precedent for demanding from a man what he owes to his gods.

The village elders consult the guardian spirits (*Emitai* is the most effective of these), but to no avail, since by tribal standards the question asked—should they give up the sacred rice—is essentially meaningless. Instead, these good and dignified old men fall to arguing among themselves and to doubting the very existence of the gods. The women, guardians of the rice, meanwhile sit huddled in the merciless sun, corraled there by the soldiers on orders from their French officers.

The tragedy is inevitable, and it is not merely that white power takes what it wants but that it destroys much more than it recognizes. It gets the rice—seemingly at the cost of a few lives; actually by crushing a culture. It is ironic that the French do not really want the grain (in the end they are "showing the flag"); it is much more deeply bitter that they impose their will through mercenaries drawn from the victimized society.

Sembene's approach to his subject is very cool. Clearly, he does not believe in blood sacrifice and inflexible ritual; clearly, he recognizes the narrow potentialities of this tribal culture. But unlike the French, whom he is very careful not to hate, he recognizes that it is more terrible to rob the people of their forms and dignity than it is to cut short their lives. What the conqueror does not understand, he brushes aside as mere childishness; he is guilty of ignorance; malice would probably be less destructive. In this context, I think *Emitai* can be seen as the beginning of a process that is much further advanced in *The Harder They Come*.

The people of Sembene's story are impressive: the women handsome and sardonically wise; the agile old men seeming brittle in their staccato volubility, but proving tough as roots when the need comes. The setting, open grasslands and marshes of giant reeds, is quiet and palely beautiful. □

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ART

LAWRENCE ALLOWAY

The Whitney Annual is now the Whitney Biennial. It opened in three stages, until finally the whole place was jammed with "Contemporary American Art." It will also close in three stages, divesting itself of the exhibits on March 4, 11 and 18, so that the complete show can be seen only until March 4. About 220 works are displayed on five floors of the museum, and painting and sculpture, which used to alternate in smaller shows, are lumped together. The mixture seems more than twice as bad as when the two media were shown apart. The show is terrible and all that remains to do is figure out why, or some of the reasons why.

Looking back through *The Nation* I see that I liked the Annual in 1970 ("samples rather promptly a new trend in painting"—it was illusionism in Abstract painting), but had changed my mind in 1972 ("the Annuals do not function efficiently to distribute fresh information"). I thought, too, not only that the Annuals repeated gallery shows and magazine coverage but that curatorial ideology was narrow. By the 1970s the presence of women, black and Puerto Rican artists on the scene was inescapable, but the curators had not anticipated this, as they would have done if their contacts with artists were adequate and their methods of analysis more sophisticated. After a demonstration, they hurriedly raised the representation of women artists and found black artists whose works resembled the art they already knew and liked (thus William T. Williams was brought in as an uptown Frank Stella).

The difficulty of sampling any art simply on the basis of simultaneity of production, which is what the Whitney does, is immense. The problems are compounded when the usual layers of discovery, modification and revision that any sample across time reveals are as complex and as numerous as in American art today. It was a smaller and less self-aware art world in the 1930s, when the shows started, and the cross-section method was an acceptable method then. The Whitney continues to use a selection method which has not changed since the first Biennial (the exhibitions were biennial from 1932 to 1936). Now the change from annual back to biennial offers the appearance of change, but without the fact.

The works in the Biennial look like photographs of Mars from *Mariner 9* before matching and sorting into a

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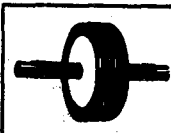
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readable mosaic. In the absence of the act of interpretation, which neither the rules of the exhibition nor curatorial taste supply, we get a heap of ill-assorted objects. In the 1930s, when American art needed reassurance, the Whitney confirmed artists' aspirations by simply showing their work. Its name, like that

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of a good department store, was a guarantee of the quality of the items displayed. Today, with all these colliding samples of current art, it is more like Klein's than Altman's.

A sign takes its meaning largely from its context: a work of art, as an exceedingly complex signifier, is vulnerable to contextual change. In an exhibition that represents artists by single works the links to other related pieces by each artist are weakened and the spectacle of the present display becomes overwhelming. When an installation is as

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disordered as the Biennial's the works of art it contains suffer random revisions. The show is like a momentary and accidental conjunction of furniture in eccentric orbits (as after some future disaster in space).

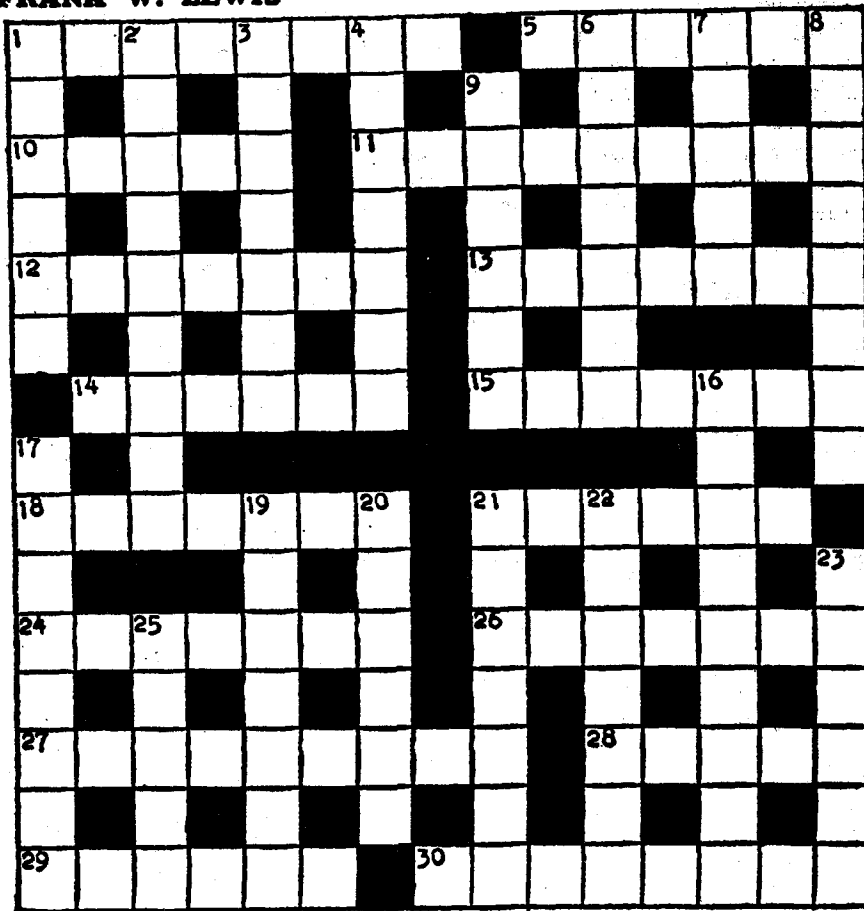
In the foreword to the catalogue, John Baur, the director of the museum but not the selector of the Biennial, writes of the difficulty of putting on "a fair cross section" because "there are simply too many good artists." Then why not stop acting on the assumption of unlimited choice and determine limits for future shows? Mr. Baur suggests that this is being done by concentrating "on those new directions which seem to be generating the most creative excitement." On examination, the exhibition does not support that sanguine claim. For one thing, there is an excess of Abstract art and an inadequate coverage of realism. It is really time to stop showing average pieces by such artists as John Chamberlain, Gene Davis, Jimmy Ernst, Michael Goldberg, Larry Poons, Nicholas Krushenick, Forrest Myers, Ray Parker, Michael Steiner, Cy Twombly, Jack Tworckov, and Neil Williams. Theirs can hardly be described as the art of "new directions."

Some new names are in, some of them artists I respect and like very much, but their work is seen at a disadvantage in soggy company and incoherent confrontations. One or two set pieces are very depressing, showing artists going all out to shine. There is a dull bumper Tony Smith; a Ronald Bladen sculpture as bombastic as a Robert Grosvenor; and Richard Serra has demonstrated his social skill by getting from the curators a room to himself for a floor piece, the point of which seems to be that it looks symmetrical but is sequential. He alone of all the artists in the show is not harassed by other artists, but the room looks empty except for his ego.

The usual way to review shows like the Biennial is to list the things you like or can tolerate. I have reversed the procedure and given the names of those artists I didn't like, or some of them. If I now came up with a list of the artists I like I would be resorting to a "but on the other hand" kind of argument which I don't want to do. It is clear that the Whitney has decided to maintain the Annual-Biennial exhibition without making any fundamental change in the operation (bigger and less often does not amount to change). That being the case it seems better to stress the exhaustion of the museum's method of selection, the low standard of the hanging, and the loose taste of the curators, than to praise artists who have all been seen to much better effect in other places. □

Crossword Puzzle No. 1479

FRANK W. LEWIS



ACROSS

- 1 and 15 across By a high mountain, one of Napoleon's helpers and another military man might be above the law, in a sense. (8,7)
- 5 American fish and French dog. (6)
- 10 Is such a patron estimated by sound consideration? (5)
- 11 Eternal change, about at your own choosing, if secondary. (9)
- 12 A hundred and a hundred and one, like trees. (7)
- 13 It might burn up, or even infuriate a person. (7)
- 14 and 28 across Buries, intrinsically, in almost 11 position if you do. (11)
- 18 Not like a hawk, even to Hamlet. (7)
- 21 Concerning the distinct aspect that's live? (6)
- 24 American travelers might find it holds the essence of France. (3,4)
- 26 and 17 down Notice a suggestion concerning the kicking of the marijuana habit? (4,3,3,5)
- 27 A pearl's in less than mint condition for those using a strip as a means of taking off, perhaps. (9)
- 28 See 14 across
- 29 An early American is coming back to do the laundry later. (6)
- 30 It's not good fun to sort of dream how some pictures may be left. (8)

DOWN

- 1 and 19 down A classical clean-up job. (6,7)
- 2 and 7 down Comes down especially in

the unadorned equivalent of Eliza's complaint. (3,4,2,5)

- 3 The small talk of a traitor attached to a shroud, perhaps. (7)
- 4 The possible outcome pleases, but slips by, possibly. (7)
- 6 Was such a queen associated with the stream of cinematographic memory?
- 7 See 2 down
- 8 It's 50-50 an old city is about to be associated with Poe. (3,5)
- 9 More than one to bow, being prepared.
- 16 Set weight for the message? (9)
- 17 See 26 across
- 19 See 1 down
- 20 It's only relative in a funny fellow, causing an eye-opening experience. (6)
- 21 Is Hogarth's character a transgression of what the croupier does? (5,2)
- 22 Sooner or later one should be 20, unless it's Pullman. (7)
- 23 Certainly not the near side to create resentment. (6)
- 25 A mouselike creature, made considerably less wild by play. (5)

SOLUTION TO PUZZLE NO. 1478

ACROSS: 1 and 18 I never saw a purple cow; 6 Ecu; 10 Coupled; 11 Droplet; 12 Anisette; 13 Capri; 15 Taxes; 17 Vapor lock; 19 Merganser; 21 Satin; 23 Incas; 24 Delicate; 27 Diploma; 28 Coroner; 29 and 26 Restores; 30 Showplaces. DOWN: 1 Itch; 2 Equinox; 3 Ellis; 4 Sedatives; 5 Wedge; 7 Calypso; 8 Unthinking; 9 Concerns; 14 Stem-winder; 16 Scansion; 20 Recipes; 22 Titanic; 24 Death; 25 Carol.

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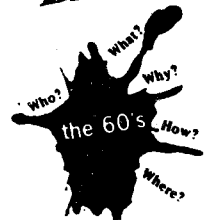
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